

Abusive Poultry Contracts Require Government Action

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The poultry sector is completely dominated by a few large poultry processing companies, known as integrators, that control every step of chicken production — from chicks to cutlets. Farmers that raise chickens are known as growers; these growers do not even own the birds that they raise and fatten for the processors, often under abusive contracts. Integrators deliver chicks to the growers, micromanage how the birds are raised, and frequently require the growers to build and upgrade expensive henhouses in order to keep getting contracts. Chickens reach slaughter and processing weight in about six or seven weeks, but loans taken out to build henhouses can last for more than a decade, making many chicken growers entirely dependent on a series of flock-to-flock contracts to repay their debts. The poultry sector is less like a free market than abject serfdom. Growers are reluctant to defend themselves from abusive practices because integrators can retaliate by cutting off their contracts. Often there is only one processor operating in any one area, which leaves growers with no other options to sell poultry.



Extreme Vertical Integration in the Broiler Industry

The poultry industry has become increasingly concentrated over the past 20 years as larger companies acquired smaller regional processors and cooperatives. The percentage of the market controlled by the four largest broiler companies has increased by nearly 50 percent in the past decade and has tripled since the 1980s as the result of mergers and acquisitions. In 2012, four processors controlled nearly three out of five (57.1 percent) broilers.¹ Even though there are fewer companies processing chicken, the volume of chicken production and processing has increased sharply. Over the past 50 years, U.S. broiler processing rose from 1.5 billion birds in 1960 to 8.5 billion in 2012.²

The broiler industry is the most vertically integrated segment in agriculture. “Vertical integration” refers to the ownership and control of multiple stages of production by a single company. A handful of poultry processors dominate the production of broilers by operating processing plants, hatcheries and specialized feed mills and contracting with growers to raise the chickens for them.³ The integrators own the birds and



the feed, and they control the delivery of feed, the timing of the delivery of baby chicks, and when the fully grown flocks are picked up to be processed.⁴ Production contracts exist for almost all types of livestock, but the broiler industry is unique in the near-universal use of production contracts.⁵ Theoretically, contracts can provide farmers a guaranteed market for their livestock, but in a concentrated market large integrators can extract lower prices and impose exploitative contract terms on farmers.

Production Contracts

Nearly all (97 percent) broilers are raised under production contracts,⁶ and there has not been an open cash market for broilers since the 1950s.⁷ In production contracts, poultry growers do not own the chickens; they merely raise them for the integrators. These production contracts pay the growers for the service of raising the birds, not for the actual chickens.⁸ The processing company delivers the inputs (feed, young chicks, transportation, etc.) to the farmer and then picks up the chickens when they are fully grown.⁹ Integrators use production contracts to manage the supply of birds to their slaughter plants and to rigidly control how growers raise the chickens.

Contracts Place All the Costs and Risks on the Growers

The broiler industry uses “take-it-or-leave-it” contracts between the integrators and the growers.¹⁰ About half of growers only have one or two integrators near enough to get contracts, so they have little choice but to accept whatever terms integrators offer.¹¹ The terms of production contracts can be severe, and many of the contracts effectively shift the

cost and risk of doing business from the integrator to the poultry growers.¹² For example, poultry growers are responsible for securing environmental permits for disposing the chicken manure and are financially and legally responsible for the manure disposal.¹³ Some contracts are for growing only a single flock of birds, which takes around seven weeks; although the contracts may be automatically renewed as new flocks are delivered, they do not guarantee any future flock deliveries.¹⁴ Nearly half (45 percent) of the contracts are flock-to-flock.¹⁵ Two-fifths of growers (38 percent) reported that they are sometimes left without flocks long enough to create financial harm.¹⁶ Even longer-term contracts allow the integrators to cancel the contract with little notice.¹⁷

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Contracts Require Expensive Capital Investments

Although the poultry contracts only last a few weeks, growers can be stuck with debt loads that last for five to 15 years.¹⁸ Many integrators demand that poultry growers invest in significant upgrades to broiler houses and other equipment to secure contracts.¹⁹ Between 2009 and 2011, nearly one-third (29 percent) of poultry growers were required to make these capital upgrades.²⁰ New broiler houses are extraordinarily expensive and can run upwards of \$1 million for the four houses that most growers use.²¹ A single large broiler house can cost \$300,000.²² Between 2009 and 2011, integrators required poultry operators to spend \$637 million in capital upgrades to their existing facilities, averaging \$142,000 per farm.²³ For most growers in the Southeast, Arkansas and the Eastern Shore of the Chesapeake Bay, broiler houses are typically many times more expensive than the growers’ homes.

Although integrators require these new investments, their contracts do not pay more to adequately cover the costs of the investments after the growers make the upgrades.²⁴

Growers that make upgrades do not even receive guaranteed long-term contracts so they can pay off these debts.²⁵ Some poultry growers have reported that the integrators have threatened to terminate contract renewals if the farmers did not make equipment upgrades.²⁶ Even after growers made the required investments, some integrators have still terminated contracts.²⁷

Contracts Don't Pay the Bills

The scale of poultry farms has grown rapidly, as growers try to eke out a living by increasing the volume of birds they produce on contract. The median-sized poultry operation increased by one-fifth over the past decade, rising from 520,000 birds in 2002 to 628,000 birds in 2011.²⁸ Many contract poultry growers barely break even, as the prices growers receive for broilers have been falling steadily and the mandated upgrade investments can mire growers in debt. In a 2011 survey, the U.S. Department of Agriculture (USDA) determined that nearly one-third (31.2 percent) of poultry operations with one or two chicken houses had negative farm income.²⁹

Between 2006 and 2011, half of all growers received 5.5¢ per pound or less for the birds they raised.³⁰ An in-depth analysis of Alabama poultry farm business records found that average contract producers with four houses faced a net loss of \$7,000 a year between 1995 and 2000.³¹ In 2011, the average farm business income was \$12,700 for poultry operations with one or two houses and \$35,500 for farms with three or four houses.³² These meager earnings can barely make a dent in the debt from hundreds of thousands of dollars invested in poultry houses and capital upgrades.

An Uneven Playing Field

Poultry processing companies often use a system of paying growers on a ranking, or “tournament,” system that pits producers against one another to determine what they are paid. This appears to reward growers on merit, but really can disadvantage growers that are pawns in the production process. Growers receive a base payment for raising each flock as well as an incentive payment based on the grower’s “ranking” against other growers.³³ Rankings are typically based on how much weight birds gain and the mortality rate of the birds.³⁴ Each grower’s payment is determined by their comparison to other growers’ performance — a higher ranking than average increases the payments growers receive, but a lower ranking reduces their payments. Almost all contracts use ranking systems for some portion of the grower’s compensation.³⁵

Although the system seems to reward more efficient growers, the integrators control the entire ranking system and the likelihood that a grower succeeds.³⁶ The integrator can manipulate the performance of any individual grower by the quality and timeliness of bird delivery or feed and veterinary services. Deliveries of underweight chicks, late chick deliveries, poor feed, late bird pick-up or other outside factors could significantly undermine a grower’s performance and ranking.³⁷



Individual growers cannot effectively bargain with integrators and integrators have broken efforts to build farmer organizations.³⁸ In some cases, integrators have discriminated against poultry grower associations by delivering substandard inputs or delaying picking up flocks until after the birds stop gaining weight (which lowers the tournament ranking, because the birds eat feed without adding weight).³⁹ Since most growers only have one or two integrators that contract in their region, threats and intimidation can destroy their livelihoods. Retaliation and discrimination against grower association members and leaders deters and prevents growers from standing up for their rights and fighting for fairer contract terms.

Growers Left Behind

Contracts also expose farmers to the risk that their buyer will go out of business or leave the area.⁴⁰ In 2009, the risk of buyer failure became a reality. The 2009 Pilgrim’s Pride bankruptcy led to the closure of three processing plant complexes.⁴¹ Some of these closures led to the termination of grower contracts. For example, in Live Oak, Florida, Pilgrim’s terminated contracts with some growers, including some with about \$600,000 in debt on their chicken houses.⁴² In many parts of the country there are no options to grow for another buyer.

What You Can Do

For decades the Eastern Shore poultry companies have profited from an inequitable system of production in which the integrators reap billions of dollars in annual revenues while across the country 71 percent of contract growers without off-farm jobs live below the poverty line.⁴³ Political leaders in

Maryland can take important steps to protect contract growers from unfair treatment at the hands of the giant poultry companies by enacting the Farmers' Rights Act .

The Farmers' Rights Act:

- ensures that contracts between contract growers and poultry companies are easily readable and transparent.⁴⁴
- allows contract growers to associate freely with one another and to discuss their contract, working conditions and other work-related issues.⁴⁵
- protects contract growers from living under massive amounts of debt for capital expenditures required by poultry companies when those companies terminate their contract without cause.⁴⁶

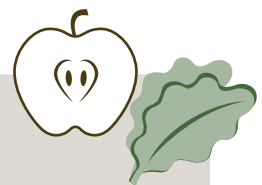
- gives contract growers who are not in compliance with the contract 30 days to fix the problem and keep their jobs.⁴⁷
- prohibits the inherently unfair "tournament" system of pay, where contract growers are forced to compete with other contract grower when it's the poultry companies who control all the production inputs.⁴⁸

Poultry companies will only treat their contract growers with the dignity and fairness they deserve when it becomes the law.

To learn more about how to restore competition in agriculture and our food system, go to www.foodandwaterwatch.org/maryland.

Endnotes

- 1 MacDonald, James M. USDA Economic Research Service (ERS). "Technology, Organization, and Financial Performance in U.S. Broiler Production." EIB-126. June 2014 at 4.
- 2 *Ibid* at 6.
- 3 MacDonald, James M. and William D. McBride. USDA ERS. "The Transformation of U.S. Livestock Agriculture: Scale, Efficiency, and Risks." EIB-43. January 2009 at 6.
- 4 Taylor, C. Robert. Auburn University. "The Many Faces of Power in the Food System." Presentation at the DoJ/FTC Workshop on Merger Enforcement. February 17, 2004 at 6.
- 5 MacDonald, James M. USDA ERS. "The Economic Organization of U.S. Broiler Production." EIB-38. June 2008 at iv.
- 6 MacDonald (2014) at 13.
- 7 Taylor, C. Robert. Auburn University. "The Many Faces of Power in the Food System." Presentation at the DoJ/FTC Workshop on Merger Enforcement. February 17, 2004 at 5.
- 8 MacDonald (2008) at 3.
- 9 Taylor (2004) at 4.
- 10 Carstensen, Peter C. University of Wisconsin Law School. Statement Prepared for the Workshop on Merger Enforcement. February 17, 2004 at 10.
- 11 MacDonald (2014) at 29.
- 12 Carstensen (2004) at 10.
- 13 Moeller, David. Farmers' Legal Action Group, Inc. (FLAG). "Livestock Production Contracts: Risks for Family Farmers." March 22, 2003 at 4.
- 14 Hayes, Lynn A. Farmers' Legal Action Group, Inc. (FLAG). Testimony before the Senate Committee on Agriculture, Nutrition, and Forestry. April 18, 2007 at 4.
- 15 MacDonald (2008) at 13.
- 16 Farmers' Legal Action Group, Inc. (FLAG). "Assessing the Impact of Integrator Practices on Contract Poultry Growers." September 2001 at 2-6.
- 17 Hayes (2007) at 2.
- 18 *Ibid* at 7.
- 19 American Antitrust Institute's Transition Report on Competition Policy: Chapter 8 Fighting Food Inflation through Competition. 2008 at 304.
- 20 MacDonald (2014) at 33.
- 21 *Ibid* at 15.
- 22 MacDonald (2008) at 7.
- 23 MacDonald (2014) at 13 and 33.
- 24 Moeller (2003) at 5.
- 25 USDA Grain Inspection, Packers and Stockyards Administration. "Assessment of the Livestock and Poultry Industries: Fiscal Year 2007 Report." May 2008 at 31.
- 26 Hayes (2007) at 7.
- 27 *Ibid*.
- 28 MacDonald (2014) at 14.
- 29 MacDonald (2008) at 23.
- 30 MacDonald (2014) at 26.
- 31 Taylor, C. Robert. Auburn University College of Agriculture. "Restoring Economic Health to Poultry Production." May 2002 at 1-2.
- 32 MacDonald (2014) at 41.
- 33 MacDonald, McBride (2009) at 6.
- 34 *Ibid*.
- 35 MacDonald (2008) at iv.
- 36 Taylor (2004) at 6.
- 37 Domina, David and C. Robert Taylor. Organization for Competitive Markets. "The Debilitating Effects of Concentration in Markets Affecting Agriculture." September 2009 at 65.
- 38 Taylor (2004) at 7.
- 39 Hayes (2007) at 11-12.
- 40 MacDonald, James et al. USDA ERS. "Contracts, Markets, and Prices: Organizing and Use of Agricultural Commodities." Agricultural Economic Report 837. November 2004 at 30.
- 41 Smith, Rod. "JBS cleared to buy control of Pilgrim's." *Feedstuffs*. October 19, 2009.
- 42 "Canceled Pilgrim's growers face huge losses." (Live Oak, Florida) *Suwannee Democrat*. January 9, 2009.
- 43 Gay, Malcolm, "Many Growers Live Below Poverty Line." *Richmond Times Dispatch*. September 15, 2002
- 44 FRA 24-201(A)
- 45 FRA 24-601(A)
- 46 FRA 24-501(A)(2)
- 47 FRA 24-501(B)(1)
- 48 FRA 24-602(5)



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