Organization for Competitive Markets

P.O. Box 6486
Lincoln, NE 68506
(402) 817-4443
www.competitivemarkets.com

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Support of the Farmer Fair Practices Act; Poultry Grower Ranking Systems
Docket No. GIPSA_FRDOC_0001-0317

The Organization for Competitive Markets (OCM) supports the Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA) Poultry Grower Ranking Systems Docket No. GIPSA_FRDOC_0001-0317 proposed rule.

This rule puts in place a market safeguard that is necessary for a fair and open market to exist within today's predominant vertically-integrated business model for the production and processing of broiler chickens. The current state of the law does not grant contract poultry growers a right to their own contractual base payments. Therefore, the contract ranking systems, also known as the "tournament systems," allow poultry processors to avoid paying individual poultry contract growers the contractual base payment outlined in the contract between the poultry processor and the farm family, i.e. the contract poultry grower. The perceived bonus that a purported "better farmer" receives as outlined in this tournament system is often not paid from the pockets of the corporate integrator. Rather it is paid from the pockets of the neighboring farmer/growers by paying them less than the base payment outlined in the contract between the parties. It creates winners and losers among the family farmer/growers, but collectively, the company does not have to pay out the full aggregated base payments, so the company always wins.

What makes the tournament system even more abusive is farmers' lack of control over their inputs, outcomes and performance. The poultry processor delivers the feed and the farmer must take it regardless of quality; the poultry processor delivers the chicks and the farmer has to take them regardless of quality; and the farmer has to raise the chickens in accordance with strict production practices as outlined by the poultry processor, not based on his experience and knowledge.

In this vertically integrated business model of animal production, the company is guaranteed a fixed cost of labor for the production of the chickens. Further, because the farmer capitalizes the production of chickens by providing the buildings and equipment, the company lowers its cost of production and shifts the capital risk to the farmer/grower while maintaining total control of the entire system from feed and chicks to the processed products heading to the retail sector. This lack of control and business decision-making puts the farmer in the position of a laborer for the poultry processing company rather than as a businessman in the partnership.

Because there is not an assured base payment, the farmer is not afforded the same opportunity in the deal. When farm families make the business decision to become a contract grower for the poultry processor, they do so relying on the representation of the financial numbers the poultry processor provides them that outlines a positive path forward for both paying off the mortgage and for making a reasonable living in return for their capital and for their labor. They borrow several hundreds of thousands of dollars and sometimes over one million as part of the deal with the poultry processor. In order to do this, the farm family must mortgage not only its farm but its home as well, given that the farm family's home is usually located on the farm. The mortgage obligation will usually run for 10 to 15 years, while the grower's contract with the processor frequently goes from one batch of chickens to the next, approximately 6 weeks. The processor can terminate the grower at any time for any reason. The mortgage payments will still be due as scheduled.

Unfortunately, once the deal is done and the contract is signed, the grower begins to realize that the processer holds all of the power and cares only about its profits and gain, and cares nothing about honoring the bargain with the grower. The processor can abuse the deal for their unilateral gain. They can demand at any time in the contract that the grower change equipment in the poultry buildings, thus increasing the debt. If the grower shows reluctance, the integrator can wait for weeks to deliver the next batch of chickens, or deliver sick chicks or contaminated feed. With the family home mortgaged to the hilt, the grower often relents and fearfully tells interviewers that he feels like a serf on his own land.

What exacerbates the situation for growers even more is their lack of choice in integrating firms with which to work. Even though there are as many as 30 chicken processing companies in the U.S., four chicken companies control the majority of the market and there are usually only one or two that have processing plants within an economically feasible drive from a given farmer's area. Therefore, one or two companies' control 100% of the poultry grower's contract marketplace within any given area or region of the U.S. This creates contracts by adhesion. "Either do it my way or you will lose your home" is clearly unconscionable by any standard.

Because of the extreme concentration in the market, the farmer mortgaging their farm and home and the poultry grower contract in effect for a shorter period than the mortgage, the farmer does not need more incentive to perform. The tournament system is simply an abusive market practice that fleeces the farmer and puts money in the pockets of the big companies, which ultimately have all the power in the deal.

Seventy-one percent of the farmers who derive their income as contract poultry growers live below the poverty level while having hundreds of thousands of dollars invested on behalf of the poultry processors' vertically integrated business model. Recent reports of poultry processors' record profits clearly indicate the chicken processing industry has been doing very well.

This abusive market practice not only affects the farm family but it affects rural America. Every dollar farm families lose in these strong-arm arrangements is a dollar their rural communities will not see. As a result, the wealth of rural communities is extracted and put in the hands of multinational corporations, including some that are foreign-owned. Allowing this unfair, heavy-handed market practice to continue supports foreign companies and countries at the expense of American families and rural communities.

In the U.S., an open market opportunity for fair and free contracting for poultry grower contracts does not exist. When heavy concentration in any market sector exists, it is the obligation of the market referee, in this case GIPSA, to step in and put in place basic market safeguards to ensure a fair market opportunity for both parties to receive the benefit of the bargain. This proposed rule is the bare minimum safeguard the marketplace needs to function. These market safeguards should be adopted.

Contact:

Joe Maxwell
jmaxwell@competitivemarkets.com
573-721-0927

Angela Huffman
ahuffman@competitivemarkets.com
614-390-7552