



Written Testimony of Amanda Hitt
Director of Government Accountability Project Food Integrity Campaign

On

“Reviving Competition, Part 5: Addressing the Effects of Economic
Concentration on America’s Food Supply”

Before

Subcommittee on Antitrust, Commercial and Administrative Law
Committee on the Judiciary
U.S. House of Representatives

January 19, 2022

Chairman David Cicilline, Ranking Member Kenneth Buck, and other Members of the
Subcommittee:

Thank you for the opportunity to submit testimony on this important issue before the
Subcommittee. I am Amanda Hitt, Director of the Government Accountability Project’s Food
Integrity Campaign (FIC). For nearly forty-five years Government Accountability Project has
worked to empower whistleblowers, truth tellers and citizen activists. Our organization has
represented whistleblowers from various industries and addressed their concerns touching upon a
large number of issues of vital public interest.

Whistleblowers are people who speak out against waste, fraud, threats to public health and
safety, and abuse of power. Very often at their own peril, they do the unthinkable when they
disclose wrongdoing in the public’s interest. Government Accountability Project works to make
sure their voices are heard and their concerns addressed.

Government Accountability Project established the Food Integrity Campaign over twelve years
ago to address the unique issues facing truth-tellers working in food and agriculture sectors of
the economy. FIC’s clients include contract growers.¹ Contract growers raise birds on behalf of
the poultry company and take on the debt burden of constructing housing and maintaining
facilities for raising the animals. In working with contract growers, I have noted that farmers
relay common concerns about the industry. I am submitting written testimony to share FIC’s
unique perspective on consolidation in agriculture having represented over a dozen
whistleblower contract growers.

For the reasons outlined below, we urge the subcommittee to take actions to place a temporary
moratorium on large food and agribusiness mergers until an Anti-trust Review Commission is
formed, and its recommendations are acted upon by Congress and/or the Executive Branch. The

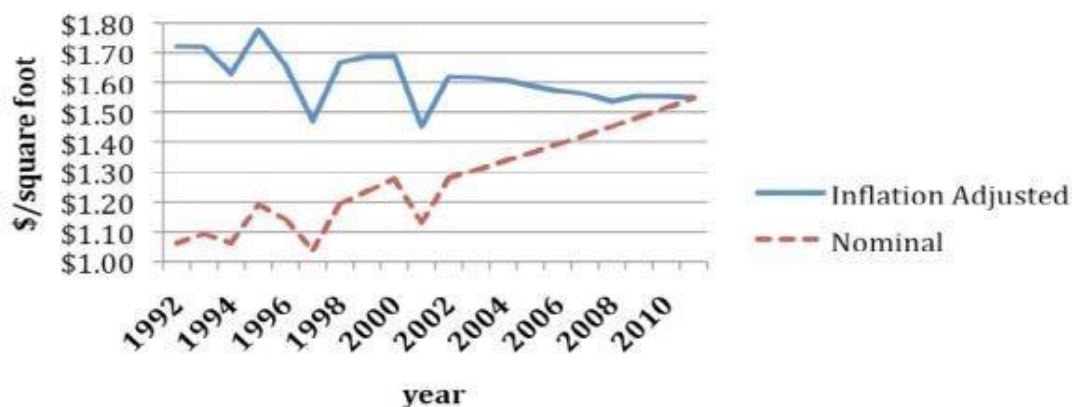


approach is consistent with the *Food and Agribusiness Merger Moratorium and Anti-Trust Review Act of 2019*, as introduced by Senator Booker (S. 1596) and Rep. Pocan (H.R. 2933) in 2019. Further, to address the imbalance of power between farmers and giant corporations and protect farmer whistleblowers, we ask that Congress support and defend the strengthened Packers and Stockyards Act rules as they are issued by the U.S. Department of Agriculture.

I. Impacts of Consolidation on Contract Growers

With unchecked power, companies have standardized exploitative practices that are harmful to farmers, to rural communities, and consumers. Inadequate federal legislation and the lack of enforcement of antitrust laws have resulted in only a handful of corporations that control our food from farm to fork. Over the past 50 years, fewer and fewer multinational agribusiness corporations have come to control more and more of our food system, shutting out local and family farmers in the process.

In a theoretically free and fair marketplace, if your business partnership is doing well, you should be rewarded for your investment and hard work by a share of the profits. But the chicken industry has strayed very far from being a free and fair market. Even as company profits have skyrocketed into the billions annually, farmer pay is actually decreasing over time. As farmers are asked to invest more, grow more, and get bigger, they are earning less per pound produced or per square foot of housing provided. For example, economists Robert Taylor and David Domina analyzed decades worth of chicken farm incomes in Alabama and demonstrated that farmers are actually making less of a return on investment over time.



Taylor, Robert and David Domina. (2010). Restoring Economic Health to Contract Poultry Production. May 13.

<https://bit.ly/3tr9sBS>

The key here is to look at farmer pay adjusted for inflation over time. Other researchers have found similar findings in other states. In Arkansas and Oklahoma, farmers received a gross



revenue per foot increase from \$0.84 in 1979 to \$1.62 in 1999, unadjusted for inflation. Once adjusted for inflation, the per square foot revenue payments were the equivalent of \$1.69 in 1979 and \$1.62 in 1999. In other words, as the industry gets more concentrated, and power is reduced to the hands of a few CEOs, real return on investment for poultry farmers is actually decreasing, despite the significant growth and record-breaking profits the companies are enjoying.

Illusion of Choice:

With fewer companies in the marketplace, farmers lose the freedom to choose. Because the poultry and livestock industry are already so highly concentrated, farmers face many barriers in changing from one company to another. Most companies require specific equipment and barns, and for many farmers switching contracts would involve a significant reinvestment. These types of requirements actively reduce competition among companies in a region, making farmers dependent on one company and reducing their bargaining power.

Increased concentration in the industry only intensifies this problem. If there is only one company active in a farmer's area, then once they are in debt, the farmer will have no choice but to accept whatever deal that company offers— even if it decides to lower the pay of the farmer. A USDA study on the impacts of concentration on growers' pay found that growers in an area with only one integrator earned about 8% less than growers in an area with four or more integrators available to choose from. Results of this study, which accounts for characteristics of the operation and specific features of the production contract, suggest that greater integrator concentration results in a small, but economically meaningful reduction in grower compensation.ⁱⁱ Having few companies to work with is increasingly the trend, as mergers such as Wayne Farms LLC and Sanderson Farms Inc. take place throughout the industry. In 2011, 21.7 percent of growers reported only having one integrator to choose from, and another 30.2 percent reported only having two operating in their area. Over 50% of chicken growers already face a highly concentrated and uncompetitive marketplace.ⁱⁱⁱ

Asymmetry of Information:

There is a basic principle in economics that every farmer already knows. The more information you have, the better decision you can make for your business. You may not be able to control the weather, but you would never plant without knowing the average frost dates in your county. This would be a red flag for a businessman, but chicken companies routinely ask farmers to invest millions based on little more than vague or verbal promises and glossy advertisements. Farmers across the industry have had to fight for transparency in their contracts with chicken companies. Over time, farmers have been provided less and less information about the nuts and bolts of the business. Are they getting chicks from a good breeder farm? Did the company actually bring the amount of feed they charged them for? Are their birds being weighed fairly? Was there a disease issue at the company hatchery?

Farmers bring to the table roughly 50% of the capital investment required to produce broiler chickens. For a complex of 500 chicken houses, producing 1.2 million chickens per week, the



total cost for processing facilities, chicken houses and all capital investments would be around \$180 million. Almost \$90 million of that would come from chicken farmers themselves, in the cost of constructing and maintaining the chicken houses. Farmers are treated as equals when it comes to helping them part with their savings and assets, but are not provided even basic information by their business “partner” once the deal is signed.

II. Reasons Why Contract Growers Fail to Speak Up

Grower Debt:

Heavily in debt and in fear of losing their contracts, growers rarely speak out against the industry. It has been my experience that those who do speak out have paid off their loans. But make no mistake, there are countless other farmers who are too afraid to speak out for fear of retaliation. It takes tremendous courage for farmers such as Trina McClendon to step forward and challenge their integrators.

To get a poultry contract, growers take out loans of over \$1 million to build barns hoping to pay them off over time. But with mandatory upgrades made by the companies, they wind up trapped in a cycle of debt that often leads to bankruptcy. Contract growers are not told before they start growing that the average grower whose sole source of income is poultry farming lives at or below the poverty line. The 20th percentile of annual household income for contract poultry growers was \$18,782 in 2011, according to data from the USDA’s ARMS survey. This means that the bottom 20% of poultry growers had household incomes of \$18,782 or less, compared to the 2011 national poverty level of \$22,350 for a family of four.^{iv} Meanwhile, Tyson reported profits of almost \$10.9 billion just in the first quarter of 2020.^v While their shareholders and executives reap rewards, growers in the US face some of the highest levels of debt of any sector in agriculture, earning an average of just five cents per bird.

Culture of Retaliation and Fear:

When companies have this much power, they can cut corners and bend the rules in their favor, even at the expense of farmers, rural communities, workers, our environment, and the consumers. In this David-and-Goliath dynamic, good people could lose everything if they speak out against unsafe practices, corruption, and injustice.

Studies have shown that the primary reasons people do not report misconduct internally is because they fear retaliation or believe that nothing will be done to address the problem.^{vi} According to a National Business Ethics Survey, the most frequent reason that people failed to report misconduct was because they believed that the organization would fail to take corrective action (59% of respondents) and the second most common reason was that they feared retaliation (46% of respondents).^{vii} Moreover, the tactics companies employ to keep whistleblowers silent are brutal. For speaking out, a whistleblower can anticipate such things as negative performance reviews, denials of bonuses, harassment, threats, investigations, unfair scrutiny, transfers, and blacklisting.



Many factors contribute to why contract growers in the poultry industry do not report wrongdoing. But a decision not to come forward should not suggest that there is not a problem. It is often quite the opposite. Powerful corporations exert tremendous pressure to keep growers quiet, therefore, allowing systemic wrongdoing to continue unabated.

Indeed, there are many reasons why contract growers choose not to come forward but there are countless more reasons why Congress should support avenues to facilitate their truth-telling. Farmers themselves are our first and best line of defense against threats to the integrity of our food system. Farmers alert us to issues concerning public health, animal welfare, and the environment. Growers should be empowered and encouraged to speak freely. We are optimistic the new Packers and Stockyards Act rules will address the power imbalance and urge you to support the new rules.

The Tournament System:

Making matters worse, the overwhelming majority of poultry companies use the “tournament system.” This system pits farmer against farmer and undermines cooperative organizing. Under the tournament system, the grower is paid based on how well the grower converted the feed into meat. The contract grower who grows the meatiest chicken gets a bonus and the grower of the smallest birds get penalized. The unlucky grower at the bottom of the ranking runs the risk of being crushed by loan debts and mandatory facility upgrades.

Prior to signing the contracts, farmers are told by the integrators and bank lenders that contracting is highly profitable. Few farmers realize that they can make less than the base pay promised in their contracts, and that their paychecks can vary by tens of thousands of dollars based on company-made mistakes, such as the quality of the feed provided.

Even if potential growers should want to try their luck at the tournament system and become contract growers, they will likely do so because they believe that by their own dent of will and hard work, they will ascend to the top of the tournament rankings. However, they will soon learn that the reality is that the poultry company owns all of the inputs such as feed and medication and exercise extraordinary control over daily grower activities. There is little individual farmers can do to improve their condition and are instead at the mercy of their integrator. Saddled with loans and with no other integrators available to grow for, the farmer remains trapped in a cycle of debt.

Few Opportunities for Rural Americans:

Feeding and fueling America, 20% of Americans call rural America home.^{viii} Rural economies are essential to the continued success of our country. Yet, despite being rich in assets, rural citizens leave their rural communities in search of better prospects. This phenomenon is largely



due to the unmitigated extraction of resources without any return of profit to the communities themselves. With no pathway to the middle class, rural Americans are forced to leave their homes in search of opportunity.

It is against this backdrop that the poultry contract growing has flourished. Poultry integrators sell rural residents on the promise that growing chickens will result in great profits from the use of their land. They are told that raising poultry will allow them to remain on their family farms and create generational wealth. It is a promise of independence, personal agency, and entrepreneurship that brings them into this business. Sadly, many growers are so heavily in debt that they have become little more than serfs with a mortgage.

I appreciate the opportunity to provide testimony on this important matter.

Sincerely,

Amanda Hitt

Amanda Hitt
Director, Food Integrity Campaign
Government Accountability Project
AmandaH@whistleblower.org

ⁱ Among our contract grower clients is a witness in this hearing, Trina McClendon.

ⁱⁱ MacDonald, James. "Market Power in Poultry Production Contracting? Evidence from a Farm Survey" (with Nigel Key). *Journal of Agricultural and Applied Economics*, 44 (November 2012): 477-490

ⁱⁱⁱ Id.

^{iv} <https://aspe.hhs.gov/2011-hhs-poverty-guidelines>

^v <https://www.macrotrends.net/stocks/charts/TSN/tyson-foods/revenue>

^{vi} Pacella, Jennifer. "Inside or Out? The Dodd-Frank Whistleblower Program's Anti-Retaliation Protections for Internal Reporting." *Temple Law Review* 86. 4 (2014): 721-761, 755, citing Mayer, David et. al. "Encouraging Employees to Report Unethical Conduct Internally: It Takes a Village." *121 Organizational Behavior and Human Decision Processes* (2013): 91,100- 01

^{vii} Inside the Mind of a Whistleblower: A Supplemental Report of the 2011 National Business Ethics Survey, Ethics Resource Center, (2012), http://www.kkc.com/wp-content/uploads/2014/08/ERC_Inside-The-Mind-Of-AWhistleblower.pdf, 12-13.

^{viii} <https://www.census.gov/library/stories/2017/08/rural-america.html>