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Contract Growing – Fact Sheet

What is Contract Growing?

Production contracts are increasingly common in the agricultural business. Rather than market and sell their own products, farmers often sign contracts that commit them to raise and deliver products for one specific company. In the livestock and poultry sectors, production contracts mean that companies own the animals all along the supply chain but contract out the job of raising these animals to individual farmers. Farmers take on the debt burden of constructing housing and maintaining facilities for raising the animals.

Contract Growing and Corporate Concentration in Poultry

Currently, only a handful of corporations control our food from farm to fork. Over the past 50 years, fewer multinational agribusiness corporations have come to control more of our food system, shutting out local and family farmers in the process. With unchecked power, companies have standardized exploitative practices in their contracts that are harmful to farmers, rural communities, the animals themselves, and the environment.

- Below are the 10 largest poultry companies in the United States and where they are headquartered, listed by weekly turnover in pounds
 - Tyson Foods, Arkansas - 200,470,000
 - Pilgrim's Pride Corp, Colorado (owned by JBS, Brazil) - 160,940,000
 - Sanderson Farms Inc, Mississippi – 89,650,000
 - Perdue Foods, Maryland – 63,020,000
 - Koch Foods Inc, Illinois – 60,740,000
 - Mountaire Farms Inc, Delaware – 57,390,000
 - Wayne Farms LLC, Georgia – 49,400,000
 - Peco Foods, Alabama – 36,480,000
 - George's Inc, Arkansas – 29,500,000
 - Foster Farms, California – 28,090,000
- Concentration of animals in confined animal feeding operations (CAFOs) leads to the loss of family farms: In 1950, 580 million chickens were raised on 1.6 million farms, for an average of 363 birds per farm. By 2007, nearly nine billion birds were produced on just 27,000 farms—nearly 330,000 birds per farm.
- In the chicken industry the top four firms control almost 60 percent of the national market. This kind of control significantly limits farmers' options at the local level, where the extreme lack of competition results in lower pay and worse contract terms. In 2011, 21.7 percent of growers reported that there was only a single integrator in their area that they could contract with. Another 30.2 percent reported only two integrators.
- Almost 97 percent of the chicken consumed in the US is raised under contract.

- 90 percent of the 9 billion chickens raised in the US each year are grown under contract.

Today's Contracts are Unfair to Farmers

There's a dramatic imbalance of power between producers and corporations. Farmers increasingly have nowhere to sell in the marketplace except to one or two companies. Unchecked consolidation and vertical integration have created this imbalance and allowed corporations to manipulate the marketplace, push down the prices paid to farmers and ranchers, and drive independent producers out of business.

- Comedian John Oliver covered the imbalance of power and exploitative dynamic between Big Ag and chicken farmers [in this segment from his show](#). He points out: "You [the farmer] own the property and the equipment, we [the company] own the chickens. That essentially means you own everything that costs money and we own everything that makes money."
- **Treadmill of debt:** To get a poultry contract, growers take out loans of over \$1 million to build CAFOs, 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. In 2011, contract poultry growers' total debt amounted to \$5.2 billion.
- **Short-term, insecure contracts:** Roughly 42 percent of contracts offered by poultry companies in a major industry survey were very short-term, flock-to-flock agreements. Only 31 percent of contracts were for more than five years.
- **"Tournament" payment pits farmer against farmer:** Companies calculate farmers' pay in a ranking compared to other farmers based on how efficiently they use company feed and other inputs. But 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.
- **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. Farmer whistleblower and FIC client, [Rudy Howell, took to the skies](#) to deliver a 95-foot-tall and 875-foot-wide message to the chicken industry when his contract was unjustly terminated for speaking out.

Additional Resources

If you want to read more about what farmers face in signing contracts with giant corporations, you might be interested in:

- This [feature-length documentary produced by RAFI-USA](#) takes audiences on a road trip across the American South and to Southern India to understand what's happening to farmers living under contract and what we can do to change our food system for the better.
- This [radio piece by The Salt](#) describes in depth how tournament payment systems pit farmer against farmer and make farmers pay for company errors.
- The [impacts of contract growing](#) on animal welfare, rural communities, the environment, and you.
- The [whistleblowers](#) who faced retaliation from Big Ag after going public with their stories.
- How COVID-19 has [exposed the vulnerabilities](#) that corporate consolidation has created in our food system.

- A [guide](#) to the decades-long transformation of the American food system, and articles on the out-of-control growth of the industrial meat industry: [The Guardian](#) and [Reuters](#).
- An [in-depth story](#) from Mother Jones about two whistleblower farmers who fought back against the proposed Sanderson-Wayne merger.
- The intersections of racial injustice and industrialized farming: [FIC](#) and [Facing South](#).
- How [dramatic corporate concentration](#) in the poultry industry led to the loss of farms and the exploitation of farmers.
- This [report from the Small Business Administration](#) that found that SBA guaranteed loans to contract poultry growers did not meet eligibility requirements because poultry companies exercised such extensive control over the farms.
- Evidence from a [USDA survey of US poultry growers](#) that highlights the impacts of corporate concentration.
- [Research from USDA](#) with an overview of debt carried by poultry farmers

Addendum – Packers and Stockyards Act

Reacting to public outcry and extreme concentration of power and monopolies in the meat industry, Congress passed the original Packers and Stockyards Act (PSA) in 1921. The PSA is a set of laws designed to prevent big companies from abusing their power – for example by squeezing farmers and ranchers for profits through unfair pay schemes. But despite having these laws on the books, 100 years later farmers are still facing exploitative and unfair contract terms in the livestock and poultry industries.

How did we get here?

Farmers and advocates have called for improved regulation under the Packers and Stockyards Act for over a decade. In the 2008 Farm Bill, Congress demanded that USDA release additional rules to clarify the Packers and Stockyards Act, with the intention of better protecting farmers and ranchers. These draft rules were first released in 2010, and received over 61,000 public comments. But the rules were never finalized as a result of heavy lobbying and industry pressure. This year USDA has announced their intention to finalize new rules under the PSA, finally delivering on the promise to level the playing field and increase competition in these heavily concentrated industries. For a step-by-step history of the fight for the Farmer Fair Practice Rules, [see our timeline here](#).

What farmers need out of the new PSA Rules

- 1) A rule clarifying that a demonstration of harm to competition is not always required to prove a violation of the farmer protection parts of the Packers and Stockyards Act. If a meatpacker or poultry company abuses a farmer by using deceptive, unfair, or unduly preferential practices, the statute does not require the farmer to demonstrate that the harm they suffered also harms competition throughout the entire sector.
- 2) A rule to implement reforms to the payment system, deceptively called the “tournament” system, used by poultry companies to pay contract poultry growers relative to other growers. Reforms are needed because the current system unfairly shifts risk onto poultry growers, and pays them based on the variable quality of inputs provided by the poultry company and out of the control of the grower.
- 3) A rule to provide more clarity about what meatpacker, swine contractor or poultry company conduct will be considered illegal under the Packers and Stockyards Act.

Cases

[Antitrust](#)

In Re Broiler Grower Antitrust Litigation Case No: 6:20-md-02977-RJS-CMR. US District Court Eastern District of Oklahoma. This case involves a settlement by Perdue and Tyson that impacts broiler growers contracted for grow out services at any time between January 27, 2013 and December 31, 2019. Two class action settlements totaling \$35,750,000.

There has been considerable litigation concerning the so-called "poultry monopsony." See, e.g., *Jien v. Perdue Farms, Inc.*, No. 1:19-CV-2521 (D. Md. Filed Aug. 30, 2019) (employee class action); *Haff Poultry, Inc. v. Tyson Foods, Inc.*, No. 17-CV-033-SPS (E.D. Okla. Filed Jan. 27, 2017) (antitrust class action); *Mapleville Farms, Inc. v. Koch Foods, Inc.*, 1:16-cv-08637 (N.D. Ill. Filed Sept. 2, 2016) (antitrust class action).

Whistleblower (Admin: Department of Labor)

Watts v. Perdue Farms, Inc., No. 2017-0017, at 6 (D.O.L. Admin. Rev. Bd. May 28, 2020). Perdue supplied Watts's farm animal feed for poultry, and the Board accordingly held, "Perdue is an entity who manufactures, process [sic], transports, or distributes 'food' within the meaning of the Act (FFDCA) and thus is a covered entity."

Morales Sanchez v. New Fashion Pork, LLC, No. 2020-0004 (A.L.J. Order Nov. 3, 2020) Department of Labor Administrative Review Board held that "live animals intended for human consumption" is also considered "food" within the meaning of the FFDCA.

Packers and Stockyards

Terry v. Tyson Farms Inc., 604 F.3d 272 (6th Cir. 2010) Tennessee poultry farmer claimed that Tyson retaliated against him by terminating his contract following his participation in regional grower's association. Terry claimed that Tyson violated the Agricultural Fair Practices Act and the Packers and Stockyards Act by engaging in "unfair, discriminatory or deceptive practices." The case was dismissed - "plaintiff failed to allege his involvement with an "association of producers" as required by AFPA, and failed to prove that defendant's conduct injured competition as required under 7 U.S.C. Secs. 192(a) and (b) and failed to even plead that defendant's conduct had an adverse effect on competition" <https://www.calt.iastate.edu/annotation/terry-v-tyson-farms-inc-604-f3d-272-6th-cir-2010>

Triple R Ranch v. Pilgrims Pride Corporation 2:18-cv-109 US District Court Northern District of West Virginia. <https://foodwhistleblower.org/wp-content/uploads/2018/10/1.-Complaint.pdf>. In addition to common law claims for breach of contract and fraud, plaintiff seeks relief under Packers and Stockyards Act. Plaintiff alleges retaliation based on Association.