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To:	ATR-Agricultural Workshops <agriculturalworkshops@usdoj.gov>
Subject:	U.S. Department of Justice and U.S. Department of Agriculture Joint Public Workshop Series on "Competition In Agriculture"

CHICKEN AMERICA'S FAVORITE

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Re: **U.S. Department of Justice and U.S. Department of Agriculture Joint Public Workshop Series on "Competition In Agriculture"**

The National Chicken Council (NCC), which represents companies that produce and process over 95 percent of the broiler chickens marketed in the United States, appreciates the opportunity to submit preliminary comments on the joint project of the U.S. Department of Justice (USDOJ) and the U.S. Department of Agriculture (USDA) that will explore competition and regulatory issues in the agriculture industry. As noted in the November 29, 2009, announcement about this project, the study will include an assessment of the U.S. poultry industry. NCC looks forward to participating in this assessment, especially the opportunity to provide further comments in conjunction with the May 21, 2010, "poultry" workshop in Normal, Alabama.

In the USDOJ/USDA notice soliciting comments, certain specific issues are identified as the focus of the project. These include antitrust laws related to monopsony and vertical-integration; the impact of industry concentration on food costs; effects of laws and regulations on competition; patents and intellectual property influences on production and marketing; and market practices, such as risk management tools, market transparency, and downstream buyer concentration, effects on competition. It is beyond the scope of these preliminary comments to address all of the noted issues. Instead, the following comments will provide an introductory overview of the vertically-integrated broiler industry's evolution in the context of the outlined issues. NCC intends to present a much more complete and comprehensive assessment of these issues as they relate to the broiler industry prior to the "poultry" workshop in May 2010.

During the mid-1930s, when the specialized chicken for meat (broiler) was becoming commercially important, chicken was a luxury food reserved for Sunday only serving or very special dining occasion. Consumers could much more easily afford steak and lobster in those days than they could afford chicken, especially a tender-meated bird that didn't require hours of slow baking. Even before the 1930s, entrepreneurs in all facets of the chicken business from breeders to hatcheries to feed mills to growout farms to processing plants worked hard, pursued their visions of the future, and assumed production and marketing risks as they began to shape and form the modern broiler industry. More than one economist observed the development of the broiler industry as a great example of Adam Smith's invisible hand at work.

Following World War II, there was a renewed pursuit by the pioneers of the modern broiler industry to take the industry to a higher level. As these entrepreneurs competed against each other and the other meats in the marketplace, they discovered, especially in the 1960s, that close coordination of the hatching, live production, processing, and marketing of broilers significantly reduced overall costs and enabled the end product to be better suited for the changing food demands of consumers. As the close coordination became more specific and precise in terms of breed of chickens, number of birds, type of feed, feeding program, processing timetables, and marketing/sales programs, it became more apparent that single ownership/management or vertical-integration could produce a more preferred end product at the lowest cost. The short life-cycle of the broiler was undoubtedly one of the main contributing factors that lead to vertical-integration prior to other animal agriculture moving toward vertical-integration. The "just-in-time" concept was employed by the broiler industry long before the Japanese car manufacturers took credit for the idea. With resources more carefully and fully aligned, waste minimized, recycling of byproducts, and the overall better allocation and management of resources, sustainability was, and is, greatly enhanced.

In the five decades of vertical-integration in the broiler industry all parts of the system have been well served, as have the intermediate and end consumers. While the structure of the industry has been very stable since the beginning of vertical-integration, the industry and companies have exhibited very dynamic characteristics in terms of improving genetics, embracing ground-breaking innovations and advanced technology, finding new market opportunities, and anticipating changing market needs.

Growout contracts that broiler companies have with family farmers have allowed thousands of people to get into farming, diversify and/or expand their farming operations, and more securely lock-in a stable income flow. The contract with a broiler company allows new farmers to begin farming and current farmers to grow. In many cases, their lack of net equity would have prohibited such opportunities without a grower contract. Many, if not the vast majority, of the 40+ companies that comprise the broiler industry maintain waiting lists of people who desire to become growers or seek to expand their broiler operations by adding another growout house. Financial lenders rely on the stable track records of broiler companies when making loans to growers and potential growers. These lenders understand the production cost risks and volatility of the market place are essentially absorbed by the broiler company and insulate the grower from these risks.

Consumers benefit via a continuous supply of wholesome animal protein at a very economical price. For example, in 1940 the average worker in the manufacturing sector had to labor 30 minutes to earn enough wages to buy a pound of chicken. In 2009, that worker needs to only work about three minutes to purchase a pound of chicken. As recently as twenty years ago in 1989, the average worker's time needed was five minutes.

In addition to being economical, chicken is available to consumers in a wide variety of products that number in the thousands with a full range of built-in convenience. Delivering the preferred product to the end consumer requires the marketing message be sent to the beginning of the production process with the selection of the breed of chicken. That message is then transmitted to live production, processing, and distribution to provide products that consumers want and through the marketing channels (supermarkets, restaurants, exports, and other outlets) that they prefer.

Food safety is also improved. Chicken is controlled under one management, rather than one link in the production/ processing/marketing chain doing what is easiest or least expensive for that one particular link in the chain. As a result of vertical-integration and companies continued dedication to improving the quality and wholesomeness of their products, USDA's Food Safety and Inspection Service recall incidents for chicken on the basis of per pound of meat processed are significantly lower than competing products. The same conclusion is valid with respect to unwanted residues in chicken compared with other meats. Understandably, traceability has also long been an important characteristic of the broiler industry.

One measure of the competitive level of the chicken industry is share of market. Measured by average pounds per person consumed annually, chicken is the most popular of all the meat in the American diet by a very significant margin. Globally, using the same system of vertical-integration as is used in the United States, chicken is also gaining market share. Another measure of the very competitive nature of the U.S. chicken industry is the fact that the U.S. chicken industry is the second largest poultry exporter to world markets. Only Brazil exports more tonnage of poultry. Further, unlike most of the competing countries that export poultry, U.S. chicken companies receive no comparable financial government export assistance. As much as one of five pounds of chicken are exported. Being able to export permits U.S. companies to better balance the domestic supply/demand of breast meat with leg quarters. The combination of chicken's highly competitive factors is likely to help U.S. chicken maintain its popularity with consumers both domestically and abroad.

Although the broiler industry is more concentrated than when it first began with hundreds of companies, it remains a fiercely competitive business today. Concentration by itself does not necessarily limit competition. Nor does size of company guarantee the ability to earn above average profits, as witnessed by the experience of the largest broiler company which filed for Chapter 11 bankruptcy protection in late 2008.

Also, more than a dozen relatively small broiler companies compete very well in the specialty markets they serve. These smaller firms have adroitly carved-out segments of the market; and with the skill they have exhibited, it appears it will be difficult for the largest companies to do more effective marketing to these somewhat unique market segments. There is little reason to believe that these smaller companies will not continue to do well and that the industry may see new entrants from time to time as opportunities are identified and resources assembled to meet those opportunities.

One of the intentions of this brief introduction is to help begin the discussion of why vertical- integration is the preferred structure for the broiler industry and why contracting with individual family farmers to grow the broilers is an integral and vital component of that preferred structure. The NCC looks forward to continuing the discussion at the poultry workshop and at other appropriate opportunities as USDOJ and USDA explore the issues involved in concentration and competition in the agricultural industry.

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