Poultry Workshop

May 21, 2010
9:12 a.m.

Alabama A&M University
Knight Reception Center
Normal, Alabama
APPEARANCES

WELCOME/INTRODUCTORY COMMENTS:

The Honorable Eric Holder, Attorney General, U. S. Department of Justice.

The Honorable Tom Vilsack, Secretary of the Agriculture, U. S. Department of Agriculture.

ROUNDTABLE DISCUSSION AND PRESENTATION OF ISSUES:

The Honorable Eric Holder, Attorney General, U. S. Department of Justice.

The Honorable Tom Vilsack, Secretary of Agriculture, U. S. Department of Agriculture.

The Honorable Christine Varney, Assistant Attorney General for Antitrust, U. S. Department of Justice.

The Honorable Artur Davis, Congressman, U. S. House of Representatives.

The Honorable Ron Sparks, Commissioner of Agriculture, State of Alabama.

ROUNDTABLE DISCUSSION ON POULTRY PRODUCER CONCERNS:

The Honorable Tom Vilsack, Secretary of Agriculture, U. S. Department of Agriculture.

Gary Alexander, Producer, Westminster, South Carolina.

Kay Doby, Former Producer, Cameron, North Carolina.
Robert Lumzy, Former Producer, Columbia, Mississippi.

Carole Morison, Former Producer, Maryland.

Sandra Genell Pridgen, Producer, North Carolina.

Garry Staples, Producer, Steele, Alabama.

Shane Wooten, Producer, Henagar, Alabama.

PUBLIC TESTIMONY.

John Ferrell, Deputy Under Secretary for Marketing and Regulatory Programs, U. S. Department of Agriculture.

William Stallings, Assistant Section Chief, Transportation, Energy and Agriculture Section, U. S. Department of Justice.

ROUNDTABLE DISCUSSION ON TRENDS IN POULTRY PRODUCTION:

Norman Familant, Chief Economic Litigation Section, U. S. Department of Justice.

Benny Bishop, Peco Foods, Tuscaloosa, Alabama.

Max Carnes, Producer, Baldwin, Georgia.

Michael R. Dicks, Watkins Chair, International Trade and Development, Oklahoma State University.

John Ingrum, Forest, Mississippi.

Cindy Johnson, Attorney, Cohutta,
Georgia.

Robert Taylor, Professor, Agricultural Economics and Public Policy, College of Agriculture, Auburn University.

Mike Weaver, Producer and President of Contract Poultry Growers Association of the Virginias, Fort Seybert, West, Virginia.

ADDITIONAL PUBLIC TESTIMONY.

John Ferrell, Deputy Under Secretary for Marketing and Regulatory Programs, U. S. Department of Agriculture.

William Stallings, Assistant Section Chief, Transportation, Energy and Agriculture Section, U. S. Department of Justice.

DUDLEY BUTLER, U. S. Department of Agriculture.

CLOSING REMARKS:

John Ferrell, Deputy Under Secretary for Marketing and Regulatory Programs, U. S. Department of Justice.

William Stallings, Assistant Section Chief, Transportation, Energy and Agriculture Section, U. S. Department of Justice.

DUDLEY BUTLER, U. S. Department of Agriculture.
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May 21, 2010 9:12 a.m.

SECRETARY VILSACK: Well, good morning. I'm Tom Vilsack, Secretary of Agriculture. And I'm certainly pleased to be here at Alabama A&M University and appreciate all of the folks that are here today.

I want to welcome everyone to this joint competition workshop between the Department of Agriculture and the Department of Justice. It's an historic opportunity for us to listen and to learn.

Congressman, good to see you.

I want to thank the folks at Alabama A&M University for allowing us to use this facility and everyone who has provided assistance to us.

I also want to recognize several members of the United Food and Commercial Workers, as well as those from the retail, wholesale and department store unions that are joining us today.
This is, as I said, the second in the series of competition workshops we are holding this year to allow us to better understand the issues of most concern and deserve closer attention and to explore the appropriate role, if any, for antitrust or regulatory enforcement in the agricultural area.

In March we held a workshop on general farmer issues in Ankeny, Iowa.

Today we're focusing on competition and contracting practices in the broiler industry, as well as the relationship between producers and companies.

On June 25th we will hold a workshop on dairy in Madison, Wisconsin. We will evaluate the competition on livestock markets on August 27th in Fort Collins, Colorado. And we'll discuss margins on December 8th in Washington, D.C.

President Obama has provided clear direction that his government should
be open and transparent. And that's what he hope these workshops are designed to do. We seriously want public dialogue on these very complex issues.

As I travel as Secretary of Agriculture across the country I hear a very consistent theme: Farmers and ranchers and producers are worried about whether there's a future for themselves and their children in agriculture. And we know having a viable market largely determines if such a future will exist.

Farmers have the right to know if their markets are fair, competitive and transparent, especially if they're going to make a significant investment to allow them to get in or to stay in agriculture.

At the same time, consumers across the country have the right to know if the food products they're buying are safe and are fairly priced at the grocery store.

At the Iowa workshop we discussed
whether there was enough innovation and
competition in the seed industry. We also
looked at the spot market in hogs, which
has become very thin and volatile and
making it more difficult to actively price
hogs.

Today we evaluate the poultry
industry, and, specifically, the broiler
portion of the industry.

As those in the audience probably
well know in the 1950's and '60's the
poultry industry underwent one of the
largest transformations of any sector in
agriculture through consolidation and
vertical integration.

Poultry production is vertically
integrated. The company owns the birds,
the feed, medications, veterinary services,
whereas the growers take on the capital
cost of building the facilities, helping to
pay the fuel costs and caring for the birds
to market weight.

Most production is supplied
through poultry growing arrangements between the company and growers. In 1963 the top four firms controlled 14% of chickens slaughtered. Today it's roughly 57%. And now it's not uncommon for a grower to have to do business with only one company in their area. Also been increasing controversies between poultry growers and processors, specifically relating to the length of contracts and contract terms.

The concentration numbers fail to answer the basic question, which we want to hear from you today: What is needed to have a viable, fair and competitive marketplace?

The issues surrounding the competitiveness in agriculture have been debated for decades. And there's no doubt that they are difficult and complex, which is why this workshop is important and, we believe, long overdue.

We continue to seek answers and
solutions. The Administration is very aware of the concerns that producers have about market concentration. And we've already taken a number of steps.

The USDA and the Department of Justice have established the Agricultural Competition Joint Task Force to explore opportunities to harness each other's expertise and will be developing a new memorandum of understanding that will outline our relationship. These workshops will help inform us as we work on this now.

The president's budget in the ag area has increased GIPSA's funding level to improve enforcement over unfair and deceptive practices in the marketplace. The Department is using these resources to hire attorneys to handle complex competition investigations as well as other violations.

The current budget the President has proposed to Congress for 2011 also requests additional funds to hire legal
specialists and field investigators to help conduct more than 500 inspections to ensure that the market is fair and above board.

We published a final rule in December of 2009 to improve fairness in contracting in the poultry industry. Specifically this final rule ensures that growers are provided a 90-day notice before a company can terminate their contracts.

It also ensures that growers who were building new poultry houses get to see a -- a true written contract on the date the poultry company provides the poultry house specifications, not months later, which could put the grower in a take-it-or-leave it situation.

The final rule also spells out that the growers have the right to discuss their contracts with their families, their lender, their state or federal agencies, their lawyer or other growers that contract with the same company.

We are also in the final
clearance for a proposed rule which we intend to issue sometime in mid June to carry out the requirements of the 2008 Farm Bill that addresses issues of fairness in contracting in the livestock and the poultry marketplace.

Again, I want to thank you-all for attending today. And I want to thank the panelists in advance, before my introductions of them, for their willingness to participate in this workshop. And look forward to hearing what they have to say on this very important issues in agriculture.

It's now my distinct pleasure to introduce the Attorney General of the United States, Eric Holder. During his impressive career General Holder has served in the private practice, as a U. S. Attorney for the District of Columbia, as an Associate Judge of the Superior of the District of Columbia and as a Deputy Attorney General.
He has worked to investigate and prosecute official corruption on the local, state and federal level. And he's fully invested in strong enforcement of our nation's antitrust laws to advance the interest of justice on behalf of the American people.

On a personal note, I want to indicate the personal attention the Attorney General has paid to these particular workshops. There are many places that the Attorney General could be today, but he has dedicated himself to coming to these workshops as an indication of his concern and interest.

So please welcome -- join me in welcoming Attorney General Holder.

ATTORNEY GENERAL HOLDER: Thank you. Well, good morning.

Thank you, Secretary Vilsack. It's always good to join with you. And it's good to be here and it's also good to be out of Washington, D. C.
Seated to my left is the Assistant Attorney General for the Antitrust Division in the United States Department of Justice, a woman who has revitalized the Antitrust Division and who -- from whom you'll be hearing later, Christine Varney.

You might hear in me a slight New York accent, but it's always great to be in the beautiful state of Alabama. I consider you all my second home. My wife was born and raised about five hours south of here in Mobile, Alabama, but this is my first visit to -- to Normal.

So I want to thank the city and our host, Alabama A&M, for welcoming us today and for hosting what I think is a very important workshop.

The discussion that we have gathered to begin reflects, I think, a historic collaboration, as Secretary Vilsack said, between the Departments of Justice and Agriculture and leaders from
across our nation's agricultural industry.

Secretary Vilsack, Assistant Attorney General Varney and I are committed to improving our understanding of how particular agricultural markets function. That is why we are here. And that's why we've decided to hold a series of five workshops across the country to hear from people, to examine the challenges facing America's farmers, growers and producers.

Now, two months ago we kicked off this workshop series in Secretary Vilsack's home State of Iowa, I wonder how that happened, where we focused on the seed industry. That meeting, I think, was a great success.

We received very valuable feedback from those who attended and from those who provided written comments.

Now, I fully expect that this workshop will be just as useful. Not only do we appreciate your input, quite frankly, we need your input, we need to hear from
you. And today our goal is to develop a -- a clearer picture of what competitive issues participants in the poultry market are facing, but we need your perspective. Your insights can help us fulfill our responsibilities to take appropriate action to enforce the Packers and Stockyard Act. It will also enable us to be more effective advocates for competition, which is Christine's job.

Now, as we begin this important conversation it is fitting that we've gathered here at Alabama A&M. This university has a very long and a very distinguished tradition of training agricultural leaders. And today is on the cutting edge of industry and industry advancements.

In fact, as we speak, university biotechnologists are making strides in the development of an allergy free peanut. Now, this is something very important to me. I've got two children who are allergic
to peanuts. And if you can pull this off, I will be able to get peanut butter sandwiches to everybody in my family.

But in learning about this, I couldn't help but think about George Washington Carver, who spent his career working on innovations with peanuts at Tuskegee University. Doctor Carver once said, and I quote, "New developments are the products of a creative mind".

Well that is certainly true, but I believe that new developments, and more importantly, progress, are also the product of collaboration.

Now, in coming together today our hope is that we can move forward in meeting our goals to ensure competition, to ensure opportunity and fairness in our agricultural markets. Secretary Vilsack, Assistant Attorney General Varney and I understand that.

As farmers, producers and industry leaders we understand that you
face a variety of challenges. We know that some of you have concerns about production contracts. Others are worried about consolidation in our poultry markets. Whether you're here to talk about antitrust issues or to raise questions about fair contracting and business practices, we really look forward to hearing from each of you.

Now, with your engagement, I believe that we can move closer to answering the question that's at the heart of these workshops. The question of whether competition in today's agricultural industry is as free and is as fair as it should be.

And as we work to answer this and understand why a growing number of American producers and farmers find it increasingly difficult to survive by doing what they have been doing for decades, I want to ensure each of you that the Obama Administration is committed to protecting
competition in a very vigorous manner. This is a top priority for today's Department of Justice.

But I recognize that the vigorous enforcement of our antitrust laws, while critical, cannot fully address the concerns of many agricultural industry leaders and stakeholders. That's why we're partnering with the United States Department of Agriculture to benefit from its deep expertise in your industry and, hopefully, to share our expertise on the broader regulatory issues that are potentially at play. And that's why our agencies launched the Agriculture Competition Joint Task Force that Secretary Vilsack mentioned.

That's also why we're engaging directly with all of you, to listen, to learn and to determine the best way to ensure fairness and to encourage success.

Now, as we evaluate and develop policy we want to hear from you. And I think that's something that all of us would
really stress, we want to hear from you. In fact, when we announced these workshops last year, we also issued a call for your comments and recommendations. And, so far, the response has really been tremendous. To date we have received over 15,000 comments. And I'm grateful that so many of you have contributed to this extraordinary example of government public engagement at its best.

Not only must we keep up this work, we have to expand this work. And together, I believe, that we can address these 21st Century challenges that the agricultural industry now faces. Now, I'm certain that we can honor and preserve your industry's essential role in our economy as well as our culture, our livelihood and our global standing. Your participation here gives me great hope about what we can accomplish together in the days and -- and months ahead. Secretary Vilsack and I look forward to hearing from you and to working
with all of you.

   So thank you so much for
welcoming us here today. And, as I said,
we look forward to hearing from all of you.

SECRETARY VILSACK: General,

   thank you very much.

   Let me explain what we're going
to do this morning. We are initially going
to have an opportunity to hear from
Christine Varney that the Attorney General
briefly introduced.

Congressman Artur Davis is here
with us, as well as Commissioner Sparks.
We're going to have an opportunity to ask a
few questions of this panel.

   We will break for a short period
of time and reconvene a larger panel of
producers and growers and have the same
kind of question and answer format in the
morning session.

   Then I think we turn it over to
-- to General Varney for the afternoon
session, which will give folks additional
panel discussions and opportunities for Q
and A.

We do want this to be as
interactive as we possibly can have. And
we do want to hear from as many people as
we can.

Let me first and foremost
introduce very briefly the three members of
the first panel. And then I will turn to
the Attorney General with a question and to
each of the individual panelists for a
question so that they can make a statement
in response.

As the General indicated,
Christine Varney was confirmed as an
Assistant Attorney General for the
Antitrust Division in April of 2009.

She has held leadership positions
in both public and private sector. From
1998 to 2009 she was a partner in Hogan and
Hartson, a very significant and prestigious
firm in Washington, D. C., where she served
in a dual capacity as a member of the
firm's antitrust practice group and the head of the Internet practice group.

From '94 to '97, 1994 to 1997, she served as a Federal Trade Commissioner at the Federal Trade Commission. She was the leading official on a wide variety of Internet and competition issues. Prior to her service there she served as an Assistant to the President and Secretary to the Cabinet during the Clinton Administration.

She is joined by Congressman Artur Davis, no stranger to the folks here. The Congressman was reelected in 2008 to serve his fourth term in the U. S. House of Representatives. And he represents the Seventh Congressional District here in Alabama and serves as a member of the Ways and Means Committee. He is a member of the Congressional Black Caucus and resides in Birmingham, Alabama.

He was also appointed to the senior whip team for the Democratic
Congress of the Hundredth and Ninth Congress. And is the co-chair of the Sentrus House, New Democrat Coalition, as well as the Southern Regional co-chair of the Democratic Congressional Campaign Committee.

Congressman Davis and I became first acquainted as a result of relationship on the Democratic Leadership Council.

Joining the Congressman is the Honorable Ron Sparks who serves as your Commissioner of Agriculture and Industries. First elected in 2002 easily won reelection to a second term in 2006.

In 1999 Commissioner Sparks was appointed Assistant Commissioner of Agricultural and Industry. He has completed terms as President of the Southern Association of State Departments of Agriculture. And most recently served as the President of the National Association of State Departments of
Agriculture. Commissioner Sparks continues to serve with that commission on the executive committee. And that is an opportunity that we look forward to each month to visit from the USDA with the state ag commissioners and secretaries to make sure that we have a seamless communication system.

So these are the three panelists.

And I think, General, if I could start with you and -- and give you a chance to sort of expand a little bit more. I clearly want to thank you for attending this workshop and certainly appreciate the collaboration your Department is providing with our Department, it's truly historic.

As you know, and as the folks in this room probably know, poultry enforcement under the Packers and Stockyards Act is divided between our two agencies. This makes, I think, communication and coordination very critical.
In years past growers have been frustrated with what they feel is a lack of coordination and a sense that no one will help them.

Do you have a sense about what we can do to improve the communication and coordination with respect to this important issue?

ATTORNEY GENERAL HOLDER: Well, I certainly -- one thing -- one of the things we have to do is exactly what we are doing now, which is to give people an opportunity to interact with those people like ourselves who have the responsibility for running the departments that are -- have, as their responsibility, enforcement of -- of that act.

I think we also have to come up with ways in which we interact with each other in ways, frankly, better than we have in the past. I don't think the Department of Justice, again, quite frankly, has been nearly as active as it needed to be.
We have tried to reach out to our counterparts at the Department of Agriculture and to establish what, I think, is in some ways a historic relationship with an understanding of the expertise that we can bring to these questions and with a respect for the deep expertise and experiences the Department of Agriculture has in this regard.

It seems to me that without all of the relevant agencies of the executive branch actually functioning, working -- working together, speaking with one another, we're not going to be in a position to give you all the kind of service, frankly, the kind of government that you deserve, the kind of effective action that I think this government is capable of providing.

And, so, that is why we are here, but it is also why when we leave and when we are back in Washington the communication between our departments will -- will
SECRETARY VILSACK: General, thanks very much.

And for the purposes of the group here today, I want to make one introduction of a USDA official, primarily because if there are difficult questions relating to the Packers and Stockyards Act.

I want Dudley Butler -- Dudley, do you want to stand up, who is in charge of that area to be able to answer them. So that's the man you want to go to.

MR. BUTLER: Thank you.

SECRETARY VILSACK: I don't think I just did you a favor, Dudley.

I want to now turn to Congressman Davis.

Congressman, just from your vast awareness and knowledge as you travel around in your congressional district in the state, your thoughts about competition in the poultry industry and what, perhaps, needs to happen in order to make sure that
everyone is being treated fairly.

CONGRESSMAN DAVIS: Thank you,

Mr. Secretary.

And let me begin by just greeting you and the Attorney General. Mr. Secretary, you may recall several years ago after our DLC partnership you came to the state of Alabama and you had a chance to talk to some Democrats in Jefferson County. And it was good to see you then.

And, Mr. Attorney General, it's always good welcome you come back to your kind of, sort of adopted state.

Some of you may remember the Attorney General honored the State of Alabama in 2009, only few weeks after his being sworn in as the first African-American Attorney General of the United States he came to Selma, Alabama. And he honored history and he honored the whole state by standing in the pulpit of Brown's Chapel on Jubilee Sunday.

And, Mr. Attorney General,
people continue to remember that visit, not quite as much as they remember Barack Obama coming, but you're a close second. And it meant a lot that you came that day and I thank you for that again.

Let me -- before I answer your question, I want to pay tribute to both of these individuals who are seated to my immediate left because of something the U. S. Congress is about to do, but it would not have happened without the leadership of Secretary Vilsack and Attorney General Holder.

Some of you in this room have a vital interest in a fair and just resolution of the Pigford Case that has consumed some many people and so many families for close to 20 years now.

Several years ago working with Democrats and Republicans in Congress we managed to reopen the Pigford litigation and we included those provisions in the bipartisan 2008 Farm Bill.
Well, earlier this year Secretary Vilsack and Attorney General Holder made an announcement that this long running, long festering stain of the agriculture system of the United States was ready to be settled.

And I'm happy to sit here and report to you that in Congress' final days before the Memorial Day recess the House of Representatives is poised to pass legislation that will include a 1.4 billion dollar settlement for Pigford litigants that would not have happened without the vision of this Attorney General, this Agriculture Secretary and this President. So please give them a hand for that accomplishment.

Let me go to directly to the Secretary's question.

Mr. Secretary, the best way I can answer that question is to share with you a brief anecdote that I recall from my travels around this state several years
ago.

I was attending a farmer's conference. And, candidly I did not profess myself to be an expert on poultry farming, I was there to learn and to listen. I said my piece. And then at the end I -- I took questions, did more listening than talking.

As I was about to leave, and I did what we politicians are always reluctant to do and says, is there any one person who hasn't had a chance to speak who wants to get in?

There's a gentleman from North Alabama who made his way to the microphone. He said, Mr. Davis, I'm a poultry farmer. Been a poultry farmer for 33 years.

My son is 22. He is graduating Auburn University. A very fine school in East Alabama, Mr. Secretary. And he said my son came to me a few weeks ago and said, "You know, dad, you've been a poultry for 32 years. I have decided that I want to
follow in your footsteps and I want to be a poultry farmer".

The gentleman looked out at the audience and said, Mr. Davis, the first thing I did was I said to my son, "Well, I'm going to put together a list of contacts that you may want to talk to", you know, as dads and sons kind of always work together. So I'll put together a list of contacts I want you to talk to.

And then he said something that stunned everybody in the room, he said, "I had no intention of calling a single one of those contacts on behalf of my son".

Everyone got quiet. And he said I waited, I let several weeks go by and my son came back and said, "Dad, have you heard from any of those guys, you know, that you said I needed to talk to about getting into the poultry business"?

And this gentleman said to us that day that he kept giving his son the runaround.
And everyone is sitting there wondering why would a father give his son the runaround when his son was trying to go into the family business.

The gentleman looked out at all of us that day, about a hundred and fifty people and said, "Mr. Davis, I have done this for 32 years. I do not have the confidence that my son can make it in the poultry business. I know he's smart. I know he has everything he needs in terms of work ethic. I know he has the character, my wife and I taught him that, but I do not have confidence he can make it in the family business."

And I remember everyone in that room was sitting there wondering have we gotten to a state in farming and agriculture in the state of Alabama where when a son wants to walk in his father's footsteps the son doesn't feel empowered to take his son along that path.

We have a lot of poultry farmers
who are here today. I suspect, General Holder, Secretary Vilsack if we had a chance to inventory some of them -- I don't know if that gentleman is here, he may not be, but I suspect there are stories like his in this room.

And I didn't have a chance to quiz him or to cross examine him about why he didn't have confidence that his son could make it. Maybe it's high energy costs. Maybe it's the difficulty of sustaining a small business because running a farm is running a small business as all of you appreciate. Maybe it's the lack of competition. Maybe it's predatory pricing. Maybe it's predatory relationships between producers and management.

I didn't cross examine him on those things that day, but that man in that room communicated a pain in his voice.

And all of us who care about the future of this state and the future of this region have to understand that we cannot
walk away from our farms. The reality is that in this state farms have lost 76% of their value over the last decade. That means Alabama is hurting because we're not fully maximizing what our farms can do.

So I'm glad to see the Attorney General and the Secretary of Agriculture fully engaged in this very unique partnership because I want men like the individual who stood up at that meeting to be able to say, I welcome my son into the poultry profession. I welcome my son into the family business. I'm confident he can make it. I'm confident he can thrive.

There's something fundamentally wrong when a father has to say to a son, do not walk the path that I walked.

The final comments I'll make, Mr. Secretary. We have the outstanding new president of this school, Doctor Hugine, who is here today, who's seated on the first row. We have a pretty good crowd of folk.
Everyone in this room ought to appreciate, it is not an accident or coincidence that we're at Alabama A&M. As Jay-Z likes to say they could be in anyplace in the world right now. Some of y'all got that.

They could be in a number of places in Alabama. They could be at Auburn. They could be at AUM. They could have gone to Selma. They could have found an excuse to do this in Birmingham because the flights get into Birmingham more easily sometimes.

But they're here, Doctor Hugine, at this school, which has meant so much to Northeast Alabama. For anyone who doubts that Alabama A&M is 100% on its way, that Alabama A&M is one of the proudest institutes in this region, turn around and look behind you and see what Alabama A&M can do. Doctor Hugine, it's a tribute to your leadership that we're today.

Thank you so much, ladies and
SECRETARY VILSACK: And, actually, Congressman, we were planning a competition hearing on football at one of those other universities, for the rest of the country that will come later.

Commissioner, I want to turn to you. You obviously have your ear to the ground with Alabama agriculture and agriculture generally.

And I'm just curious, and I think the General is curious, in knowing your thoughts about what we can to do to make sure that this playing field is level for the growers and producers and how can we potentially strengthen their position so that this playing field is as level as it can be so that a father has a chance to say to his son you can participate in this business.

COMMISSIONER SPARKS: Absolutely.

And, Mr. Secretary, you're on your own when you start mentioning football
in Alabama, okay.

   The first thing I want to do is certainly thank Alabama A&M. It is great to be back in North Alabama.

   Mr. Secretary, I'm one of the fortunate commissioners in this country where I have three land grant universities with Alabama A&M, Tuskegee and Auburn. And I am very proud of all three of them. And they do yeoman's work for agriculture in this state. And I just want to -- I'm very proud of them and I appreciate them.

   And I want to thank you personally for taking your time to come to Alabama, along with General Holder. This means a lot to -- to us in Alabama. And thank you Assistant Secretary Varney -- General. This means so much for you come to Alabama and talk in my opinion, to some of the best farmers you'll ever meet.

   I've had the privilege of working with industry and agriculture in this state now for 11 years. And I can tell you it
has been a great ride to be able to work
with these gentleman.

But, you know, there's a key word
when we start talking about contracts, we
start talking about farmers, we start
talking about agriculture, and that key
word is profitability. Profitability --
it's hard to keep anybody in business if
they don't see a way to make a living. And
that's the struggle that farmers have today
is to try to figure out how they're going
to make a living and how they're going to
make ends meet.

And General Holder when you
started quoting Doctor George Washington
Carver it makes me feel good because in
many of these individuals that's ever heard
me speak I talk about Doctor George
Washington Carver also. And Doctor George
Washington Carver once said a man with no
vision is a man with no hope.

And that's why all of these
people are here today because they do have
vision and do they have hope and they want
to support their families and they want to
support agriculture.

The poultry industry is extremely
important to Alabama. It's over a two
billion dollar industry. The way I view
the poultry industry, is a partnership. It
is a partnership of farmers, a partnership
of companies.

And what I have learned as
Commissioner of Agriculture for the past
seven years is that sometimes in a lot of
partnerships communication breaks down.
And when communication breaks down that's
where the hardship and the difficulties
come because many of these farmers that
invest in the poultry industry invest their
lives, they invest their home, they invest
their land, they invest their future, they
invest their kids' future, they invest
there kids' eduction.

And when there's a lack of
communication of not understanding each
other, and the troubles that they're going through, then it creates adversity.

And that's what I would hope that we can get out of this meeting today, is that farmers understand companies and companies understand farmers and we find a way to move this industry forward in a very positive way because the poultry industry is a great industry, but they are going through some very difficult times when it comes to the investment of their home, the price that builds, utility costs, labor costs, but, on the other hand, companies are going through those similar issues.

So I would hope that through all -- all of this today that we find some common ground. That companies communicate better with our farmers and that farmers communicate better with our companies and that we find a way to move this business forward because without each other there is no poultry industry.

We've got to have each other to
make this industry work. And we've got to understand what each other are going through. The technology. And I think we need to find a way to reward good farmers that use the technology that these great land grant universities afford them. So that's -- that's where I would hope.

There is a great risk for farmers and there's a great risk for companies. And we've just got to find a common ground and the communication that allows us to move on.

SECRETARY VILSACK: Commissioner, thank you very much.

I think it's important for us to reflect, not just on the industry's significance to farmers, but also on the industry's significance to consumers. Very few people in America appreciate what American agriculture and the food industry provides to them.

Every single one of us has probably 10 to 15\% more disposal income in
our pockets from our hard earned paychecks by virtue of the fact that we have the least expensive food as a percentage of income of any developed nation in the world.

So Americans have this extraordinary opportunity to maybe buy a nicer house or a car or go on a vacation in large part because those food dollars are stretched so far in this country. And, so, it is important for us to continue to support farmers.

And, General, and -- and Assistant Attorney General Varney you might find it interesting to know that -- that these farmers out here, if you took a look at their total farm income, family farm income across the country, only 9% of it last year came from farming operations, which means that 91% had to come from some other place, which means that these people, in many cases, are working more than the farming job they have, they're working off
the farm or their spouse is working off the farm or they're both working off the farm.

So, Commissioner, your comments are -- are certainly important. And you brought up the issue of communication. And I think, as the General indicated, that the departments have to do a better job of communicating. And, certainly, the USDA has the responsibility to -- to -- to be a better communicator, both with farmers, as well as the Department of Justice.

And I'd like to ask the Assistant Attorney General who is really spearheading this effort. Maybe you could -- maybe you can tell us a little bit more about the enforcement matters the Antitrust Division handles and -- and how poultry enforcement is actually handled in the department in the sense of your role in all of this.

ASSISTANT ATTORNEY GENERAL VARNEY: Thank you, Secretary. And thank you President for having us here at this wonderful university. It's delightful to
be here.

Let me start by saying that when we raised the idea of doing these hearings to better understand what the issues were, and the intersection between agriculture and USDA policy and the Department of Justice policy, both Secretary Vilsack and General Holder immediately said, yes, when are they, we're going.

So from the highest level of the Obama Administration this has been something that we care deeply about.

And you might recall at our last hearing in Iowa, which was the one where we kicked this off, it was at a table just like this where we were hearing in the seed and grain industry that the different avenues that the USDA and the Department of Justice were pursuing. And at the table we said, "Well, why don't we create a joint task force". That's where this task force that you've been hearing about today came from was the meeting in Iowa.
And I expect today, by listening to you, we'll come up with some additional activities that we need to be doing that could address some of the problems that -- that you're experiencing.

Let me just give you a brief overview. At the Department of Justice, in the Antitrust Division, we essentially have three broad areas of law enforcement that we undertake.

In the Sherman Act enforcement, the Section 1, we generally prosecute criminal cartels, price fixing among companies.

If any of you saw the movie, The Informant, that was an Antitrust Division criminal prosecution.

Under Section 2 of the Sherman Act we prosecute large companies that have a market share in any particular industry and are abusing that market share in any way that's predatory or exclusionary.

And then under Section 7 of the
Clayton Act we examine mergers. And any merger that may lead to a substantial lessening of competition we are required to block.

At the Department of Agriculture they administer, as the Secretary introduced, the Packers and Stockyard Act.

And the intersection between a regulated an industry such as poultry under that act, and the enforcement of the competition laws under the Antitrust Division is very complex, exceedingly difficult.

And what we have found, at least in the time that we've been here, is that the more we work together the more we understand the industry in its totality.

As you've heard from both the Secretary and the General we understand the poultry industry is very, very vertically integrated. That presents a unique set of challenges when we're looking at competition.
At the same time, the retail side of the industry has become very, vertically integrated, or very consolidated.

In 1992, for example, the top four supermarkets had 17% of grocery sales. Today the top four stores have over 40% of all sales.

So you've got consolidation on the retail side and you've got vertical integration on the production side. And than can lead to a lot of imbalances in the system.

In a regulated industry where you look to correct those imbalances is a combination of using the tools that antitrust division has in concert with the tools that the USDA has through enforcement of the Packers and Stockyard Act.

So, Secretary, what we're doing is working very closely with your staff to help us -- them educate us on where they need the antitrust enforcement.

We talked about the rule that
you've been working on. We've been giving you, at the staff level, a lot input into that rule to ensure that when it likely undergoes any judicial review, when it becomes final, it's sustainable from our perspective.

As a matter of fact, when the USDA rules are challenged, it is actually the Department of Justice that represents the USDA.

So I think over the years there's been varying degrees of collaboration between the two agencies. I think all of our staff have informed me that there has never been the degree the collaboration that there has -- that there is now.

So from the highest levels all the way through the staff on the ground, the staff here on the ground, you can be sure that whatever is happening at USDA they're involving us. Whatever we're hearing about, they're the experts, we're going back to them.
Our mission with the USDA is to protect the consumer welfare of the citizens of the United States, whether they be producers or whether they be growers to ensure -- through ensuring that our markets are open and fair and competitive. And that's what we're doing.

SECRETARY VILSACK: Thank you.

We've got a few minutes left. And what I'd like to do is to give the Commissioner and the Congressman an additional question.

And then give the General any closing comments for this particular section they'd like to share.

Commissioner, let me go back to you and simply ask you this question: If we reconvened, say in ten years from now, what would you hope we would be able to say about the poultry industry that would be a little bit different than it is today or how you would see it different?

COMMISSIONER SPARKS: Well, that
we keep -- what I would hope is that we keep our markets open.

That we compete in a global world.

That we -- that the integrators and the farmers have a better line of communication of understanding each other's responsibilities and investments.

And I would hope that ten years from now, rather than it being a two billion dollar industry in Alabama, it's a ten billion dollar industry, but I just think there's a lot of opportunities here.

Working with our universities. Using the technology that's available to allow these -- and reward those technologies and allow these growers to compete in the marketplace under -- under the restraints that they -- that they have to live under.

So I would hope that, and I believe this, is that if we -- if we have that line of communication and break down
those barriers that growers understand the companies and companies understand the growers, and that we have that line of communication.

I think that's where the disconnect is, Mr. Secretary, is that sometimes, even -- even though we're partner shipping, they don't understand each other's responsibilities.

And I think the more we understand that; then the -- then the poultry industry moves forward and we all benefit from it.

SECRETARY VILSACK: Congressman, your thoughts.

CONGRESSMAN DAVIS: One important thing, Mr. Secretary, that I think that you and this Justice Department recognize is an anti-competitive environment is an inefficient environment. And that's worth spending a few seconds asserting to a group folks who don't think about these issues every day.
Sometimes there's a mindset --
thunder -- sometimes there's a mindset of
the American economy that if we just get
out of the way, if government is
laissez-faire, if the Justice Department
sits on the sidelines that things will
naturally happen.

And we are comfortable in that
belief, many of us, because we like our
free market system, we like our capitalist
system and we venerate that as both a value
and an economic model.

But the reality, as Presidents
from Teddy Roosevelt to Barack Obama have
understood, sometimes we've got to be
watchful, sometimes we have to be vigilant.
Sometimes we have to make sure that in the
name of an open market we don't crowd out
competition. And in the name of efficiency
we don't do something that's enormously
inefficient.

And, Mr. Secretary, you put your
finger on it earlier, the American consumer
is a very privileged person. The American consumer lives in one of the few highly vibrant societies in the world where most of us have routine access to most consumer items. And most of us have a reasonable opportunity to climb to the next economic lever, even in the midst from the aftermath of the incredibly deep recession we've had, that's one of the geniuses of the American economy.

If we get this mix the Commissioner talks about right in the next ten years, if we get it right in the next two decades, we'll preserve the consumer's capacity to have access to the market. We will preserve the industry's capacity to be productive and efficient in the right kind of way. And, finally, we will preserve the men and women who are laboring on farms day in and day out, we will preserve your capacity to keep doing what you do because that's what I want to end with.

The number of men and women in
this state and this region who had walked away from farming in the last 40 years is aching. So many people who grew up on farming are walking away from it and it's draining vitality from whole parts of this state.

We've got to connect those individuals. We've got to give them the promise that they deserve. And if we do it, it won't simply be good for farmers and agri-business, it will help lift up the economy of the entire state and the entire region.

SECRETARY VILSACK: Thank you very much.

You know to the Congressman's point, we've lost over a million farmers in that 40-year period around the country. And not only have we lost farmers, but we've lost a lot of population in our rural communities.

And, General, you might be interested to know that one-sixth of
America's population, about 16, 17% of Americans live in rural America, but 45% of those who serve us in uniform come from those small towns and from rural America.

And as we see a squeeze on the folks in rural America and the economy that suffers in rural America, and there are fewer and fewer young people being able to stay in rural America, you have to begin to wonder are they're going to be enough folks to care of all of our military needs and our law enforcement needs, where are these folks -- where are these folks going to come from?

So, Congressman, you're -- you've got a good point there.

General, your closing comments before we close this first session.

ATTORNEY GENERAL HOLDER: Yeah. I mean, think that, you know, although we are focusing on agriculture generally, the poultry industry specifically here today, we're really talking about something that I
think in a lot of ways is more basic than that. And it -- I think that goes to the last two sets of comments we've heard.

The American culture, who we are as Americans, is really -- you know, if you look historically is really based on our agricultural industry, the agricultural component of what America is about.

The values that we hold as Americans, I think, were developed on farms. I'm a city guy. I'm proud to be -- I'm proud to be from New York, don't hold that against me. But I'm also a person who knows a little about the history of -- of this nation.

And I think it's important for us to make sure that we hold on to the values that were developed in our rural areas that continue to sustain this nation and differentiate this nation from, you know, many other nations around the world. It's what makes, you know, this nation great.

What we want to do is come up
with a way in which we, in government, can help to make sure that there are efficiencies, that there is fairness there. And that our economic -- economic system that we have is consistent with the values that we always espouse.

We're not looking for government to direct things, but government can play a role as a referee at times.

The Obama Administration is not looking, one way or the other way, as much as just to try to make sure that fairness is the thing that permeates the agricultural sector.

And in doing so, I think we will do the greatest service, which is to perhaps reverse the trends that we have heard about people leaving farms, people not being able to pass on to their sons and daughters the ability to do the great things that they have done and the things that have shaped this country, the things that have made this nation great.
Our economy and our well-being is at stake, which is somewhat, I think, you know, the sole of this nation is also something that we are fighting to preserve. And that's something that you-all, I think, are key parts of.

And, so, what we want to do, as I said at the beginning, is really to listen to you, to figure out ways in which we can be of service to you.

And in doing so make sure that we preserve the great nation that we've always had and that we want to continue to have.

SECRETARY VILSACK: General,

thank you.

We are going to a break for -- for about 15, 20 minutes or so and try to reconvene here for the next roundtable, which will be the poultry growers. We'll talk to growers and former producers about their expectations.

That will then be followed by a lunch break. And then we will reconvene
after lunch for an opportunity for the public generally to provide testimony.

That will be followed by another roundtable discussion of individuals, both in terms of the government, as well as academic and -- and the producer and industry viewpoint.

And then additional opportunities for public testimony and closing remarks.

So we will break for about 15 or 20 minutes.

(Whereupon, the taking of the proceedings were recessed from approximately 10:03 a.m. to approximately 10:41 a.m., after which the following proceedings were had and done:)

SECRETARY VILSACK: If I can call everyone's attention to the -- to the next panel.

Let me, first of all, introduce the panel. And I can't see the name plates. So I'm not sure -- alright.
Garry, I'm going to start with you. I'm just going to go right down the line introducing folks. And then we'll get -- get to some questions and answers.

These introductions will be short. And if I mispronounce the name, I sincerely apologize.

Garry Staples is the president, owner and manager of the White Acres Farm, an eight-house poultry operation along with 60 head of registered cattle.

He's served as a board member of the National Poultry Growers Association as well as vice president of the Alabama Contract Poultry Growers Association. He's on the Board of Directors of the St. Clair County Soil and Water Conversation. He's served as an officer of the St. Cloud -- St. Clair County Cattlemen's Association and the Alabama Cattlemen's Association.

He's presently a Major in the Army Reserves. And we thank you for your service. He's served as the past company
commander of the Signal Company, 20th Special Forces. He was a team leader of the Operational Detachment 821 1st Battalion, 20th Century -- 20th Special Forces.

Carole Morison is next. And she is a farmer from Maryland. She and her family raised chickens under contract for 23 years on their family farm. She helped organize the Delmarva Poultry Justice Alliance and served as Executive Director for eight years. Currently she's a private agricultural consultant specializing in local food systems.

Gary Alexander is owner and operator of Alexander Farms, Inc., a poultry production and property development business in Westminster, South Carolina. He markets 3.2 million broilers a year through his 18 broiler house farm and develops residential properties as well. He serves on the Board of Directors of Agsouth Farm Credit, ACA and
AgFirst Farm Credit Bank, which he serves on the audit committee. Additionally, he serves on the Board of Directors of the CS Poultry Federation and the Outdoor Dream Foundation, an organization providing outdoor adventures for children with life-threatening illnesses.

Kay Doby, who is to my immediate left, has made Cameron, North Carolina here home for -- I won't say how many years.

MS. DOBY: 55.

SECRETARY VILSACK: Okay. 55 years. Just was trying to be a gentleman here.

She lives on a 3rd generation farm and continues raise meat, goats and a small flock of chickens. She's taught kindergarten for 15 years. She and her husband built two broiler houses and raised poultry until October of 2008 when their contract was terminated.

Robert Lumzy, did I say that right, sir?
MR. LUMZY: Yes.

SECRETARY VILSACK: Mr. Lumzy is currently a heavy equipment operator. In April of 1999 he purchased Lumzy Poultry Farms where he raised chickens for a living and provided jobs for those in the community who were unemployed.

In 2006 Robert lost his contract and it's his desire to regain his contract and once again become a business owner.

Sandra Pridgen is a seventh generation family farmer from Snow Hill, North Carolina. She transitioned the farm from tobacco and contract poultry production to a sustainable grass-based fed marketing meats directly to consumers through farmer's markets, fine clubs and restaurants.

Rainbow Meadow Farms currently markets, poultry, eggs, beef, pork, lamb and rabbit locally in North Carolina.

And she spent five years -- the last five years conducting on farm research
for pasture based livestock systems and
poultry genetics appropriate for those
systems.

And our last panelist on the end
is Shane Wooten.

Did I pronounce that right?

MR. WOOTEN: Yes.

SECRETARY VILSACK: Shane was
raised on a poultry and cattle farm in
De Kalb County, Alabama.

In 1997 he purchased a farm next
to his father's farm and began constructing
12 broiler houses where he continues to
raise poultry. In 2006 he also become an
insurance agent for the A-L-F-A Insurance,
specializing in poultry farm insurance.

Assistant Attorney General Varney
and I thank all members of the panel for
their participation.

And what I'd like to do is start
off with a question that we'll direct to
all of the panel is here today and ask you
to comment on it. And, just, we'll start
there with you and just kind of work right
down the line.

And, basically, the question is
this: The poultry industry over the last
40 years has become consolidated and -- and
to a certain extent vertically integrated.
And the number of countries -- companies
for growers to do business varies from each
region of the country.

In your experience, how does that
impact and affect the fairness of
contracts? And what options should we
consider in taking a look at those
circumstances where there may be only one
or two companies able to do business? What
needs to be done to make sure that farmers
and growers get a fair shake?

MR. STAPLES: Mr. Secretary, I
appreciate y'all coming today.

But talking about the integrators
being in one area. In my county alone,
we've got two, but they're up -- they do
not cross lines at this time anyway.
I wish I had an answer for you to tell you how to fix that problem, but if we could just get fair and -- and competitive markets with these people, to where we could, as a grower, be able to go to another integrator and say, look, I -- I can do this for you and get them to help us with that situation.

As it stands right now with the contracts that we're offered now it's either a take it or leave it situation. So it really puts us in a bind as growers.

MS. MORISON: I'd like to thank you for being here today as well and for giving us this opportunity.

As far as the consolidation of the -- of the industry there used to be seven poultry companies where I'm from. We're down to four now. Two are very small poultry companies, two are major poultry companies. And every year we see things downsizing more and more where, you know, smaller ones are -- are bought up.
I don't see much difference in contracts between companies. It might be a few different words that are used, but basically they're the same. So, you know, the contracts aren't really affected by that as to whether you're big or small. Contracts are basically the same.

SECRETARY VILSACK: Gary, your thoughts.

MR. ALEXANDER: Thank you for the opportunity to be here.

In our particular area we are afforded three integrators. And when you look at those contracts each one of them are just minor sentences apart of each other, they're very equal.

And in research and preparation for this meeting I looked into an area of 14 states served by the AgFirst Farm Credit Bank. And those contracts throughout that 14 states are with -- again, within pennies of each other.

In two or three cases we saw
contracts where the grower only had a choice of one integrator were in, some cases, better than the ones where you have multiple choices. So the contract portion of this business is just like any market driven decision. It's based upon competition and availability of services.

MS. DOBY: In our area we have more than one company, but it seems to be a written rule that if you go grow for one company, you really don't have the opportunity to even cross those lines to go to another company. And with -- like what they're saying, the contracts are pretty much the same, but it's -- it's not a common practice. If you start with one company, you -- you usually stay with them.

SECRETARY VILSACK: Robert.

MR. LUMZY: Thank you for allowing me this opportunity. But as everyone else has said, in our community there are several companies, but once you start with one, that's the only one that
will allow you a contract. They won't
cross the lines to come to your farm.

MS. PRIDGEN: I -- I would say
that I basically agree with Kay of what she
said. What -- what we've found is that the
companies, there's is a slight variation in
maybe the type of heating system that they
have, that company there uses for their
heater or their feed line system.

And, so, if you end up trying to
go to another integrator; then that
integrator is going to say, Well, you know,
you're going to have to make all these
changes to the specific, you know,
Cumberland Heating System or a particular,
you know, feed system that we use. So they
use that as an excuse not to take you on.

And, also, the other thing is if
they do end up taking you on, their
preference is always for getting -- if
they're in expansion mode, their preference
is always for getting new houses.

And as soon as -- what we've
found in our experiences, as soon as they can get new houses, they're going to dump those people that -- that -- that they have brought on from another company.

MR. WOOTEN: Thank you, Mr. Secretary.

In my area we've been very fortunate. At one time we actually had five integrators that served the area where I lived. It's kind of a sweet spot there. So competition has been pretty good in that area.

You mentioned vertical integration. And our aspects and thoughts that on. Vertical integration, I think, has been key to the poultry industry for the last 40 years and has provided a stable income for the poultry farmer in a stable market. But as far as competition, I think we have a pretty good competition in our area compared to some others.

SECRETARY VILSACK: During the course of our first panel Commissioner
Staples mentioned concerns that he had about — about a lack of communication or miscommunication or an inability to communicate between companies and producers.

I'd be curious to know from your own personal experience or from experiences of people that you know and trust, do you share the Commissioner's concerns? And if so, what suggestions would you make for us as to how we might be able to help improve communication?

And I'm just going to start this way and come down the other way.

MR. WOOTEN: Well, communication is -- between the grower and -- and integrator is -- is one thing that I've prepared a statement on. And if you don't mind, I'll go ahead and start with that.

SECRETARY VILSACK: Sure. Feel free.

MR. WOOTEN: A couple of the issues that is facing the contract growers
that I would like to discuss is, number one, rapid rise in expenses over the past few years. And, number two, the breakdown in communication between contract growers and integrators.

Just a quick example of expense increase. When my brother and I completed our construction of our houses in 1999 expenses have dramatically increased, but although there are many different input expenses that go into a poultry farm, propane cost is -- is one of the largest. In 1999 our propane cost was about approximately $42,000 a year. In 2009 that propane -- that same propane cost had increased to approximately $92,000 a year. That was a hundred and twenty percent increase. So that was a bottom line cut off of our profitability. Those increases have dramatically affected profitability for the contract grower.

And, in fact, the integrated system that has provided such a good,
stable income for so long, we actually lost money in 2008 on our farm for the first time.

This discrepancy between income and increased expenses is — including myself and a lot of the other growers as you had mentioned in the earlier panel, we have had to go outside the farm to provide for our families.

I think in the same time frame comparison, I think the contract pay — for me, contract pay has increased approximately 17% from 4.7 cents a pound to 5.5 cents per pound, which is nowhere close to offset the rising costs.

But integrators also have not been immune to these rapid rises in cost and input expenses, but, unlike the contract grower, the integrators do have the ability to reduce production and drive the chicken prices up which helps their profitability. The contractor does not have that opportunity.
In fact, I read in the *Poultry Times* magazine this week that integrators are actually in the -- are poised to increase production because of some of the contracts or some of the production cutbacks that they have made, the article stated that poultry prices were at a level to where good profits could be made.

Unfortunately, integrators do not the realize that the need that continues to -- continues to drive those prices up in order to be able to increase contract pay. I think it's the inability of the integrators to understand the financial strain that is placed on contract growers at this time.

I believe that is key. The key reason for that is a communication breakdown inside the companies and also from grower to integrator. That communication breakdown -- as we all know communication is very important in every business.
I was raised on a poultry farm.

And one of the biggest changes that has occurred, that -- that I feel has affected communication over the last 20 years is that 20 years ago almost every employee in our area, almost every employee of the integrator in the grow out side from the service technician all the way up to complex manager were actually contract growers themselves.

So that close relationship between the company and the contract growers was -- gave a better representation of the contract growers in any company decisions that were made.

In comparison, over the last few years, a number -- that number has steadily declined. And some integrators have actually banned their employees from having -- from being contract growers. In effect that -- in effect the contract grower has lost their representation inside the companies or inside the integrators. That
has, in turn, led -- led to uninformed decisions by the companies themselves that has affected the contract grower adversely.

This communications breakdown inside of these companies themselves has become more evident in the past few years as profit margins for the companies have tightened and they've also tightened for the growers.

So the constant pressure that these tightening of margins has placed on employees to keep cost at a minimum has caused some employees to be reluctant to bring up issues that may have concerned the contract grower because it would be an extra, additional cost to that company.

So I do not believe that is a result of the company's employees' negligence, I just simply believe that this is just a result of the high input expenses and the low profit margins over the last few years and just the general corporate structure and how communications travels up
the structure.

SECRETARY VILSACK: Thank you.

Sandra -- and feel free -- I know that folks have prepared, in some cases, written statements. If you'd like to read them, that's fine, or summarize them, that's fine, in response to this particular question or if you just simply want to furnish them. We are making a record, a transcript of this, and it will be incorporated into the record.

Question about communication and your views on this.

MS. PRIDGEN: As you know, we are independent poultry producers now. But what I'd like to say is that when we were contract producers some of the things that we noticed as a lack of communication was what they term as new grower's contract. Where you initially start out with an initial contract. And then in a few years they bring in a new grower's contract and you have to sign it before you can receive
your next flock. And there's been no negotiation and no communication between the grower or a group growers for that company and negotiation of that contract with the integrator. So you either sign it or you don't receive your next flock.

And when you have that kind of debt load over you, of course you're going to choose to sign the contract. You feel that there's no other option when you owe, you know, a half a million dollars or a million dollars.

Also, there's -- there's a lack of communication in that what is said in the contract and what is verbally communicated or verbally implied is oftentimes two different things, you know.

My dad was -- after -- after the first company shut down our complex, my dad was taken on by another company called Case Farms. And with that -- in order to be taken on he took on a $80,000 debt to make equipment renovations on -- on 16-year-old
poultry houses so that he could grow for that company.

And the company, as soon as they could get brand new houses built with tobacco allotment, buyout money that farmers were getting, they dropped those former Perdue farmers and were -- and they were left debt.

My dad, was one of them, was left with, you know, an $80,000 debt. He grew 12 flock for them and they dumped him.

MR. LUMZY: Thank you, sir.

I'm sitting here listening to no communication. Our problem is that when we have a problem with the company you have a service person comes out and they tell you what the company says. They tell you, with me now back in -- when I lost my farm.

They came out and we worked together and got my farm straight. And I asked a question, I said, "Will it cause me to lose my contract"? And they said -- when I -- with the deficiency that I had
would not cause me to terminate my contract that afternoon. At six o'clock -- at 6:00 p.m. I got a phone call from Sanderson Farms saying my contract was terminated. And I'm going -- I didn't get a chance to talk to them. I didn't get a chance to tell them what happened. So I probably knew, not the right amount of communication.

MS. DOBY: Well, this is kind of in response to Robert said. That's one of the ugly realities of the growers talking about communication.

Communication. Growers that are here today are in jeopardy because of intimidation by company personnel. And they're taking a big risk. Everybody -- every grower here is taking a big risk. And -- and if you ask them, they'll tell you.

Communication. I had a grower tell me two weeks ago he was talking to the service person that -- and he was
questioning involved the chicks that he had just got. And the service person, the answer he got was, "You know, you should just be glad you've got a job".

Well, the grower got the message real quick because in North Carolina, right there in his neighborhood, there are a hundred and sixty poultry houses sitting empty and growers have no way to pay those payments.

MR. ALEXANDER: I've got some prepared comments, but I think you can --

SECRETARY VILSACK: We can't hear you. Do you want to speak into the microphone.

MR. ALEXANDER: I've got a prepared comment. But I think you can reflect upon the communication, as the earlier gentleman stated, that this is a partnership. And it's a partnership between, oftentimes an individual and a corporation, but the thing that drives it is the communication.
And from my prepared comments I think it will address my feelings.

Integrators provided a minimum risk and total market dynamic protection for many individuals engaging in poultry production.

Nowhere can anyone go into business totally insulated from market risk and consumer preference changes. Without integrators growers could -- could not afford to be in the chicken business because of the cash flow demands and market swings at there on farm level.

Growers realize that the integrators have a lot of risk, capital, fixed assets, operational cash and et cetera, but the real success of an integrator depends upon their ability to get growers to participate with them to achieve a common goal.

In most cases a vertically integrated operation has total assets at risk, much less than the collective dollars
at risk by all growers as a single group.

Poultry grow-out is a great opportunity for young and beginning farmers through USDA with several levels of guarantees, low equity levels, integrator assisted cash flow, opportunities that normal businesses do not have access to.

The young farmer with access to land can complete a poultry house, and be in a positive cash flow position in as little as 16 weeks.

A poultry house well maintained has a life of over 30 years. Most contracts will pay the grower for his time, provide manure sales, pay off debt in a 12 to 15 years. If a grower has all farm income, there’s great tax benefits available during this amortization period. A well-managed poultry operation can be a cash cow for 20 years.

Oftentimes upgrades are necessary. This allows the grower to make a minimum, additional investment, again, to
enjoy a favorable tax benefit, the tax consideration and complete utilization of depreciation. Current grow out contracts in our area with the integrators who serve us provide about a 20% return on investment.

Historically, prior to the latest economic challenge in poultry production, as a percentage of assets held by a bank, only 2% of the poultry loans have wound up in non-accrual.

Chicken houses come with a lot of USDA assistance. You hear a lot about row crop disaster, but we have disaster programs in chicken houses. We have energy upgrade grants. We have grants for manure holding facilities and dead bird composters. Poultry growers make a commitment to treat the chicken house like a small manufacturing facility are successful, not like something that can be done at the end of the day.

The grower must understand the
grow out rules, lighting programs, feed
schedules are a result of large volumes of
data being analyzed to best fit the grow
out cycle. Each grower is to provide daily
the very best grow out conditions for a
particular breed to perform.

The quality of a grower, in most
cases, is reflected by his performance, but
every grower is subject to get weak birds
or just a bad performance over a given
period of time.

The competitive contract formula
is the hard -- is the best way to reward
the hardest workers with the greatest
amount of return. These contracts selling
like birds, with like diets, with like
weather conditions for a fixed period are
very equitable.

Fixed contracts with an off farm
owner would not be healthy, nor contribute
to the ultimate product competitiveness in
the marketplace. Growers must be held
accountable for performance through
competition.

Integrator requirements for upgrades of current housing standards is sometimes, not always has to be. A house built in a current cycle has a state of art equipment and facilities. These new facilities will out perform the technology and equipment of aging facilities.

In our area growers are often allowed to upgrade to stay at the current pay level or they're offered a contract at a lesser level continuing to do business as usual. Again, another example of risk equals rewards.

Historically the -- sometimes what we see in our areas is that the terminated growers refuses to see that he needs to be more efficient. And that reflects in the communication we were talking about. Reward is a function of risk and effort.

When you look at a big picture the grower starts out with the few less
birds or extended out times is a small price to pay for the total success of the long-term operation.

I appreciate the fact that I've never had to write a check to make an integrator whole base upon market conditions. The current oversight provided by GIPSA serves the industry well. There's no need for more government intervention in the poultry industry. A brief look at the packers and stockers complaints show a minimum amount of intervention necessary to maintain fair and equitable standards.

If you look at GIPSA's website --

SECRETARY VILSACK: Folks, let's -- let's -- let's make sure that everyone gets a chance to have their say in a respectful way. So, continue.

MR. ALEXANDER: The limited antitrust immunity provided by Capper-Volstead and other favorable statutes enable growers and integrators to join together collectively in the process
to market their products because the buyer power in the agricultural marketplace is strong -- or stronger than it was in 1922 when Capper Volsted was enacted. The Act's protection continues to be critically important to today's environment.

I strongly believe any action to eliminate or dilute the Capper-Volsted or similar federal statutes would harm the success and efficiencies of our rural communities.

MS. MORISON: Would you like for me just to answer your question or --

SECRETARY VILSACK: Yes.

MS. MORISON: Can you repeat the question?

SECRETARY VILSACK: Sure. It has to do with communication and whether or not -- the Commissioner suggested that there -- there was a need for better communication. And if you want to incorporate whatever statement you'd like, feel free to do that. I'm going to give you an
opportunity to have that.

MS. MORISON: I think that -- I think first off the communication idea, there probably is a great lack of communication. I'd say it's a one-sided communication. The grower listens and the company tells you what to do. That's been my experience.

And, you know, it's -- for -- for instance, you know, we've had mention of demanded upgrades to poultry houses, you know. The company will come out say, "You have to do this, this and this or you get no more chickens in whatever contract you're in". That's no way to communicate with anybody, number one. It's going to make the person mad.

Secondly, specifically, after 23 years of raising chickens, our contract was terminated because we refused to do demanded upgrades.

And, you know, a few weeks before -- prior to receiving the termination
letter for our contract, we were given an outstanding producer award by the very company that was terminating our contract. So I don't think that communication works. I mean, there was no communication there. We were putting out a good product. It was just said, "You do it or get no chickens".

I -- I really think communications have been tried and have failed. I've been at this for a while. I've seen a lot of efforts to make communications work. And I can honestly say I have not seen anything change since the earlier 1990 within the industry trying to use communications between growers and poultry companies.

Secondly, I'd -- I'd -- I'd like to add in, you know, the ranking system, which should be maybe a form of communication, but, you know, the ranking system is -- is how growers are paid.

And the inputs to the farm versus the output of pounds of meat moved off the
farm kind of sums up really easily to explain how this ranking system works; however, all of the inputs are direct poultry company product that are placed on the grower's farm on a good faith basis.

The grower must trust a company to deliver them quality inputs for their farm to be competitive, to raise a marketable product, and for them to have the best potential of farm income.

The ranking system in no way reflects a grower's performance. It's a reflection of the quality of company inputs in producing the output of pounds of meat. Company control over the inputs besides flock performance and farm income. This control can lead to hampering or enhancing the farm's access to fair and free trade.

Someone earlier, you know, mentioned about company employees having poultry farms, you know.

It's been said many, many times by growers that, you know, the company
employees who are running poultry farms get
the best inputs put on their farm. Since
they're the ones that are influencing and
controlling where these inputs go, they
decide who gets what.

So, you know, some companies have
banned employees from having contracts on
their farms. Other companies have it.
Obviously, if some companies have banned
this practice, then there must be some good
reason for it.

I think the bottom line is that,
you know, unless every farm placed in a
week's ranking receives the exact same and
identical inputs, the ranking system is
unfair. We can go all the way back to
chick quality that's delivered to farms,
breeds that perform differently.

Growers aren't consulted on, you
know, the breeds or genetics or, you know,
which one performs better. And, well, now,
I don't want them, I'd rather have this
batch over here, we have to take what the
company brings us. And then we're suppose to, you know, perform our contractual duty of raising the best flock possible.

There's a lot of deciding factors before the chicks are ever delivered to the farm, you know, the genetics, the health, the age and care of the breeder flock. That decides how well the chicks perform. It has nothing do with the grower, it's a company input. They're the ones that control this.

Transportation of eggs, you know, from breeder farms to company hatcheries varies, as well as the operations at the company owned hatcheries before they're -- you know, the chicks are hatched out to come to the farm.

Feed is another issue. It's the most costly input for raising a flock of chickens. And is the foremost influence on a grower's ranking.

Feed is formulated, mixed, loaded and weighed by the company and then
delivered to the farm. Feed must be accepted by the grower on the company's say so. And there's no guarantee that the feed is of the highest quality or quantity. Personally, you know, we've had several issues of -- of feed quality and quantity coming to the farm.

Number one, feed quality, I mean we've had feed so bad delivered to the farm that it actually froze in the feed bin. We had to have someone come in and take the feed bin apart, chop the frozen feed out, repair the equipment, put new feed back in. And that had nothing to do with our -- our performance, that was determined by the company. So, again, there was no communication there. "Well, you know, what we really delivered you some really bad feed. So let's see if we can't fix this and work it out". And, you know, really, you shouldn't be penalized for something that was our mistake. Instead the communication that comes across is, "We
didn't do anything wrong, it's on you, and
that's the way it goes".

You know, quantities of feed
being delivered to the farm. There's no
way to verify how much feed actually comes.
It's -- again, as I said, weighed on
company scales. We get a -- a weight
ticket and we have to accept it because the
company says so. Personally, we were going
to put scales on our farm to verify weights
of feed that were being delivered by the
company.

First we were informed by the
company that if we were to put scales on
the farm that there was no law that said
they had to go across their scales because
they owned the check-ins. Then we were
told point blank, "Well, if you do it we're
going to terminate your contract".

Now, I see nothing wrong with a
grower wanting to put a set of scales on
their farm. It helps them be a better
manager to control what is coming on to the
farm and what is going off of the farm, you know. Why would a company have a problem with you putting scales on the farm.

    Again, this was -- you know, there was no communication about this, there was no discussion. "It's if you do, your contract is terminated".

    Personally, I -- I can't count the many, many times that I have heard in one shape or form of another that our contract was going to be terminated if we did such and such. That's no way to communicate with people who are your business partner.

    And I think probably the last, you know, thing that -- that I'd like to address here is -- is the confusions and the frustrations, you know, of how a grower can find help under the Packers and Stockyards Act; and I know it doesn't -- maybe it does have to do with communication, but just in a different form between growers and government agencies.
And, you know, it's -- it's common knowledge that, you know, GIPSA only has certain authorities. They can only investigate complaints. If there's any violations found, you know, it has to be referred to the Department of Justice.

And, you know, it's understandable to me, although frustrating, that the Department of Justice has, you know, a lot more important issues to address than the issues of one contract poultry farmer. I mean, you know, we do have bad guys out there in the country and around the world.

So, you know, that right there that is understood, but then it needs to be understood, too, that once a grower does file a complaint with GIPSA, they're left wide open for retaliation by the company they contract with. And it's the single most important fact that keeps growers from filing complaints.

Companies are also aware of the
inability of enforcement of the Act. And GIPSA investigations, I mean, I've -- I've heard comments from company personnel that it's nothing more than a hassle in their daily operations because they know that there will be no enforcement of the Act because GIPSA does not have that authority.

So, I think, probably, what needs to be done there, either USDA needs to have the same authority and powers over poultry as they do over other livestock, or a clear and concise method needs to be developed in which communications are opened and which easily flow between USDA, GIPSA and the Department of Justice in order that growers do have an open avenue for making complaints. And, you know, for knowing that this information went to all the proper places it should have gone and help can be given. Thank you.

SECRETARY VILSACK: Garry.

MR. STAPLES: Secretary Vilsack, I'd like to comment on the communication
thing, first, and then read a statement --
regardless of what some of the press
releases say was prepared by me and not by
somebody else. It may not be as good as it
could have been by somebody else.

   But as far as the
communication-wise, when I first started we
had a yearly meeting with my integrator.
Went on for about two years. But since
that time I've -- even with that integrator
and a new one, the only communication I
have is with my service tech, unless I ask
to speak to someone. And if I get the
opportunity to do that, it's one-on-one, me
and whoever I ask and my service tech. So
the communication problem is a problem, I
really feel it is.

   What y'all can do for us, I don't
really -- I don't really know, but it is a
problem.

   And if you don't mind, I'll --
I'll read my statement.

   I'm here today to speak to you
about my experiences as a poultry grower as well as those of other poultry growers. I'm not here just for myself.

I've been in the business for nine years. At that time I had a 7-year contract. Four years ago I changed integrators and I was given a 3-year contract. Last year I signed a new contract, flock-to-flock. What that means is every 60 days that's the only time I'm actually under contract to grow chickens. At the end of that 60 days, I can be terminated.

I've personally borrowed a million and a half dollars. And everything I've got is mortgaged so I can be a poultry grower. I've got eight poultry houses, two dwelling houses, a hundred and eighty acres of land and all the life insurance policies I've got.

As a poultry grower with everything I've been mortgaged, I had no choice but to sign that flock-to-flock
contract. Like many of them of said, 
either I sign it or I ain't got no 
chickens.

Without any chickens, I can't pay 
any bills. I can't pay my mortgage because 
chicken houses are designed for one thing, 
grow chickens.

I personally feel like I have a 
good relationship with my integrator. I 
work for hard them to raise a good, quality 
chicken, but I wonder how I can feel really 
secure knowing that every eight to nine 
weeks I may not have a relationship at all 
with them.

Poultry -- poultry's been has 
grown under the contracts for over 50 
years. The company owns the chickens. 
They control the quality of the chickens. 
They control the feed and they control the 
feed weighing system. They control the pay 
system. And they -- and they can cancel my 
contract at any time.

They also can require expensive
upgrades. These upgrades usually cost a substantial amount of money, which means I've got to take out another loan. And when I do that I'm not necessarily reimbursed for it by the company in any way.

There's three growers in my county that were given a letter -- a letter on a Thursday that told them they had to make upgrades. The following Monday they got another letter. It said, "You're no longer an employee", or "you're no longer a grower with this company".

When this could not be done, the company terminated contracts. And since there's not another company in our area at that time, they were left without chickens and a mortgage that they could not pay.

New houses built in our area of Alabama are given -- at this time some of the areas given near 10-year contracts with a pay system that, according to the contract, will not let make less than zero
six point zero six cents per pound
regardless of their performance.

My newest two houses are two year
old and equipped the same as these new
houses. My contract is flock-to-flock, not
ten years. My bottom pay is point zero
four three oh. I've also known growers in
our county that their bottom pay is a point
zero three two five.

With a flock -- flock-to-flock
contract the contract can be changed at any
time. With the cost of power, water and
gas going higher every year you would think
the company would help compensate for more
energy costs. My gas alone has gone from
70 cents to a dollar and twenty-eight in
the past six years, just the gas. Last
year I signed a new contract. And instead
of helping with my energy allowance, they
took away point zero zero three oh cents
per pound over a year's grow out. On my
farm alone, just my farm, that's a $4500
savings to the company and a loss to my
farm.

And although I came here on my own today, it's not without a lot of worry when I leave that I'll have some retaliation. I spent 20 years in the military. And I feel strong about the United States that we should be able to. I appreciate y'all -- y'all for coming and I hope y'all will help us.

Thank you.

SECRETARY VILSACK: I'm curious to -- to talk to several of you in terms of your experience with the ranking system, which Carole mentioned.

And let me start with you, Gary Alexander. Are you operating under the same system and --

MR. ALEXANDER: We operate under the same system. We're fortunate enough our integrator separates and breeds of birds, and separates the time of grow out. And these breed of birds comes with a different diet and we settle like kind to
like kind each week.

SECRETARY VILSACK: So you're not experiencing what Sandra was talking about?

MR. ALEXANDER: It results in a ranking system, but that ranking is based upon your performance with a given set of conditions. And everybody you're ranked with has equal conditions.

SECRETARY VILSACK: Is that the experience that --

UNIDENTIFIED SPEAKER: Who do you grow for?

MR. ALEXANDER: I -- I grow Fieldale Farms. It's a small family operation in Northeast Georgia.

UNIDENTIFIED SPEAKER: There's the difference, there's the difference.

SECRETARY VILSACK: Garry.

MR. STAPLES: In my instance, I grow what we call or what the industry calls a big bird. And I may be a little bit different from some of the other growers up here. I know they -- most of
them in my county grow for another company and they settle with 15 to 20 to sometimes 30 growers.

In my instance, I settle with -- I think the most I've ever settled with is five. So this ranking system doesn't hurt me as bad. And there, again, I'm here to work for all growers, not just myself.

I still stand to lose money under the ranking system. The ranking system has good points, but it has a lot more bad points than it does good points.

SECRETARY VILSACK: The folks on this side. Experience with the ranking system?

MR. WOOTEN: I think the -- my experience with the ranking system has not been as nearly as good as some of them and not nearly as bad as others I think.

The ranking is -- I think was put into place to push performance. And if you -- the way it was designed, if you were -- if you'd done a good job; then you would
get rewarded. If you'd done a better job, if you put more effort into your grow out; then you would get rewarded for that. Of course it's got it's good and bad aspects. But, overall, I really don't know how the proper way to fix that would be besides maybe making sure all of the playing field is level like the -- Garry, I believe it was, mentioned.

MS. PRIDGEN: I don't have a comment.

MS. DOBY: Well, one thing about the ranking system, there's no transparency with a checks and balances to prevent this ranking system from being used to target or to retaliate against the growers.

And one of the things about this ranking system that when it comes into -- one of the things that come into play is the company says that some of the growers, when they're cut off, they're bad growers. Well, this ranking system, you're not started out equal. And the system is
controlled by the company.

I think it's unfair because of the lack of transparency gives the company the ability to terminate or penalize growers based on false claims of poor performance that, in fact, is out of the grower's control.

I understand why the company finds this system attractive, but there's one thing that I don't understand is why our federal government allows this to continue. And I really believe that it's an unfair system.

SECRETARY VILSACK: Another comment that's been in a couple of presentations has to do with the issue of debt and the leverage that debt either does or doesn't provide in a relationship.

And I'd be curious to -- to have the panel's views on whether or not the issue of debt creates an impetus to -- to accept things that you would otherwise not be willing to accept but for the fact that
you're concerned about having continued business and a debt and the ability to repay the debt.

Is that a serious issue for growers?

MR. WOOTEN: I think definitely -- definitely that is an issue because of the extreme debt load -- you know, any -- anybody under that kind of a debt and realizing that there's no other way besides poultry -- being in the poultry industry that you could actually pay off that debt. It does definitely put a strain on -- on any -- to accept conditions given by integrators.

I've been very fortunate that my integrator in our area and all the employees in our complex -- I grow for Tyson Foods out -- out of the Snead area. And all the employees have been very easy to work with, but -- and done a good job. But they do not understand the pressures put on us as a lot of them do not
understand the pressures put on us.

MS. PRIDGEN: I would have to say that it puts you in a position to where you don't see another way out of it. I mean, in our case the farm has been in our family, you know, for over 250 years and what are you going to do, you're going to -- you're going to do what they tell you to do because you can't afford -- you've got the farm put up, you've got the grandparents home place, everything put up, you can't afford to risk all of that.

MR. LUMZY: I agree 100% with what was just said. In fact, when I received my contract, in order for me to receive my first birds, I had to first invest over $10,000 in upgrades before they would even bring me chickens.

MS. DOBY: Yes. I'd like to read and comment about something that I already had in my statement.

When I retired from teaching in 1993 was considering building two 500 foot
chicken houses. I was promised this long-term relationship as long as I raised a good bird, followed the company's instructions.

And, initially, I was provided with a contract for that 10-year length of the loan; however, a few years later the company brought out another version of this contract. Said I needed to sign it to continue to get chickens.

Before the end of the initial 10-year term the company again changed that contract to a 1-year term. I realized that the company could change contracts easily by threatening to stop placing birds if I refused to sign.

Well, it's typical for growers to be asked to do expensive upgrades on their poultry houses before this first loan and the building has been paid off. I know because I was one of those growers.

The threats put before you, the communication, the threat is put before
you, if you do not do this, they're not
going to bring you any more chickens to
grow out. This is extortion, plain and
simple.

So the growers grow out -- go out
to their lenders and they tell them, "Okay,
the company wants me to put in new
equipment". The lender says, "Sure. How
much you need, we'll fix you right up".
The grower is now in deeper debt and has to
put up more collateral, most of the time
his own personal home.

The company tells the grower if
they make these upgrades that they're --
they're going to get paid more under this
ranking system.

I asked the company managers, I
went to them, I said, "You want me to do
this. Show me on paper where I'm going to
make this money back to justify borrowing
more money when I still owe money on these
houses"?

They couldn't do it.
Growers that have made these mandatory upgrades are now finding themselves in financial trouble. Some of them have gotten off farms jobs. Some are refinancing these loans in order to make the payments. 10, 15-year poultry loans are turning into 30-year loans with no more than a flock-to-flock guarantee.

When companies get into trouble financially they need to cut production and the growers suffer. In North Carolina there are growers that have borrowed a lot of money to make upgrades demanded by the company. And then the company, because of bad financial decisions, terminated their contract. Depending on how many houses the grower had the debt can be thousands or even millions of dollars.

Precious farm land and homes were put up to do what the company demanded. This is where this unfair ranking system comes into play again. The company said that these -- some of these growers were
cut off because they were bad growers. How did they get labeled a bad grower? They got labeled a bad grower by the ranking system. They had no control over the inputs, but then they were labeled by this.

This past Monday morning in North Carolina, one of these bad growers went out, drove down a country road. He was terminated from his contract, about to lose his home. Took a gun and ended his life.

That's what we're talking about here today. This is personal. It gets real poultry growers.

And what we're asking today is the USDA and the Department of Justice to help these contract poultry growers.

SECRETARY VILSACK: Carole, what about debt and the leverage that it covers?

MR. ALEXANDER: In my --

SECRETARY VILSACK: No --

MR. ALEXANDER: -- in our particular area we're very fortunate because of the relationship between USDA
and the banks. 80% of the loans in -- in the counties that I'm in and the counties that surround me are guaranteed by USDA funds.

Throughout that guarantee process USDA has reviewed that poultry contract and has reviewed the terms of the loan and said, "Yes, these two are equal. There's enough cash low to make the payment".

You know, I don't know that much about the USDA rules, but it looks like what would be in one place for one state would be for all.

But the USDA looks over these contracts and helps balance the grower's cash flow or has impact upon the grower's cash flow from the very beginning that makes the amortization of these loans fit the terms of the contract.

SECRETARY VILSACK: So in your area it's reliance on the guarantees that the USDA provides?
MR. ALEXANDER: It is. And it's faith that you can put in the fact that obviously USDA knows more about it than you do. So you have a feeling going forward that it will work.

SECRETARY VILSACK: So if understand your comment correctly, you're suggesting that there's not as much leverage as some of these other folks have experienced because of that?

MR. ALEXANDER: That's exactly right.

SECRETARY VILSACK: Carole, how about your experience?

MS. MORISON: I -- I think that debt has a major influence over what a grower does, what a grower doesn't do, what they say, what they don't say, what's popular and what's not popular.

I don't know about the USDA loans. I don't know. I'm just wondering if we all should be after you-all for giving us bad advice.
MR. STAPLES: Along those same lines. If it's such a good contract, why does it have to be guaranteed?

If -- you know, I -- I got my mine and it's not guaranteed, and I put some money in it. But my bank done mine because of my personal wealth or my equity that I'm putting in there. So what I'm saying is, if these contracts are as good as these people say they are, why do they have to be guaranteed?

SECRETARY VILSACK: Since we're kind of piling on USDA here --

ASSISTANT ATTORNEY GENERAL VARNEY: Want to turn to DOJ for a minute?

SECRETARY VILSACK: Well, let me just ask this one question and then I will turn to you. Christine, I'm sorry, I'm probably monopolizing this.

But I am obviously interested in the -- in the discussion that was started between GIPSA and DOJ when -- when there are problems and folks feel the necessity
of going to the next step of filing a complaint.

And I'm interested in -- in the reaction of everyone -- and, Carole, you brought this up, and everyone else's reaction about, what would be -- how do you solve that problem? Do you perceive it as a problem? And if so, how do you solve it? Do you give -- would you be interested in GIPSA having more enforcement authority as -- as was possibly suggested, or do you think that there is a process of improving the current system so it works better?

Garry?

MR. STAPLES: I personally -- I personally think that GIPSA needs a little more authority. I don't want to take anything away from DOJ because I'm pretty sure they've got their plate pretty full.

As I understand it right now, or the people I know in GIPSA, especially the one you introduced and put him on the spot, he's a pretty a good man, I think, Mr.
Butler. I think there's been a tremendous turnaround since he's been there as far as somebody wanting to help us in the poultry industry.

In past from, what I knew of GIPSA, poultry was about as low down on the list as you could get.

I think you're going in the right direction with having full enforcement from GIPSA for poultry, beef, you know, the whole -- the whole meat industry.

SECRETARY VILSACK: Gary, your thoughts on that.

Do you have anything?

MR. ALEXANDER: I'm not very familiar with the enforcement authority of GIPSA. But I had always -- always looked at GIPSA as being, for a lack of better terms, the DOT of the poultry industry.

I felt like the integrators had a tremendous amount of respect for when -- when GIPSA was brought up. And -- and how it functions today, and the fact that we've
got more credible people in GIPSA looking at the rules, I think it's a positive thing, but I'm not familiar with the enforcement branch.

SECRETARY VILSACK: Thoughts on this subject on this side. Kay. I'm sorry.

MS. DOBY: When I was thinking about this I had came up with three suggestions.

And, one, would be to prohibit that use of that unfair ranking system. There are other ways that companies could pay growers that create incentives for growers to do a good job without unfairness of that ranking system.

Another one would be make it unlawful for companies to force these growers these expensive upgrades in their poultry houses at their own expenses.

Upkeep is one thing, but if the companies are convinced that these expensive upgrades will improve their
bottom line, then maybe that's something they should be paying for. They might be a little bit more cautious about what they are requiring.

And then the third thing was to work together to enforce the Packers and Stockyards Act. And to investigate why the poultry market is so broken that growers pay -- like Shane said, had -- you know, he lost money last year, but it's been basically flat for the past 15 years.

SECRETARY VILSACK: So do you thing that -- that GIPSA should have more enforcement authority, or do you think there should be some kind of improvement to the current system so the Department of Justice could act?

MS. DOBY: Well, I think there's some rules there that have not, you know, been enforced. But, yeah, I think GISPA needs more enforcement authority.

MS. PRIDGEN: I think they need more authority. My biggest concern is that
there's really no open market for poultry except in my situation, which I'd like to read my prepared statement in a few minutes about, you know, what we're doing and where we're direct marketing.

But, you know, you can still go to the stockyards and you can still sell cattle and you can still sell -- you know, it might not be much of a market, but you can sell a little bit of pigs, but there's no -- there's no open market at all for poultry.

There's no options for those growers who have those houses who choose to go grow out from under contract except to grown on -- on a -- on a small scale and start working, building their own entrepreneurial business and doing direct marketing.

And then you get hit with, what I'd like to talk about, which is the lack of opportunities as far as slaughtering.

SECRETARY VILSACK: Well, why
don't you just briefly touch on that.

MS. PRIDGEN: As you-all know we had 16 years that we raised under contract, my family did. And at the end of that time my dad was left with $80,000 debt that had to be paid off. So there we were with the farm. Well, we didn't want to lose farm. So we had to start treading water.

Well, I -- we were raising lamb. And I had been selling the meat at the local farmer's market and I had developed a core group of customers. I encouraged dad to start chicken and sell them at the farmer's market. This couldn't pay off the huge debt that he had incurred, but it was better than nothing.

Soon we were getting requests from restaurants, fine clubs and several small co-op grocery stores. Demand was growing, but the new problem was the lack of slaughter infrastructure. The nearest independent slaughter house was a hundred and thirty-five miles away. We would have
to drive 270 -- 270 miles round trip twice a week to process and pick up our birds. And then the owner decided to sell his property to a developer.

So now we would have to take our birds to either Kings, South Carolina, we -- I live in North Carolina. So we'd either have to take them to either Kings, South Carolina or Manita, Virginia, an average of 426 miles round trip twice a week to be processed.

It is worthwhile to note that all the while there were three chicken slaughter plants and two turkey slaughter plants within one hour of my farm all owned by poultry corporations.

With diesel fuel at over $4 a gallon we were losing money and couldn't continue to drive that distance.

Processing birds on farm under USDA exemption was not a viable option as USDA has a 20,000 bird exemption under PO90-492, but the North Carolina Department
of Agriculture only allows a thousand birds -- chickens to be slaughtered out from under inspection.

It was apparent that we were going to have to stop raising chickens even though there was a growing weekly demand. By then we were marketing about a thousand birds per week.

In late 2007 Chaudhry Halal Meats in Siler City, North Carolina opened a poultry processing plant. Even though this plant is a hundred and fifty miles from our farms, it afforded us the opportunity to continue raising chickens and meet the growing demand.

The biggest issue for independent poultry producers is the lack of local slaughter infrastructure. Vertical integration in the poultry industry over the last 50 to 60 years has decimated the processing infrastructure. North Carolina is seeing phenomenal growth in the local food
movement. Consumers are taking the USDA's *Know Your Farmer, Know Your Food* Campaign to heart, but a lack of local of slaughter infrastructure and thus lack of ability -- availability of product will hamper the access of that and the success of that program.

This intense vertical integration has made it very difficult for any independent farmer or cooperative group to compete financially. Because of processor ownership throughout the entire chain of production these companies can sell poultry products for a lot less than I can. One chick will cost them about 15 cents to produce. I will have to pay a dollar for that chick. Feed costs will be two to three times theirs and processing five times their cost.

The increasing cost of production means that I cannot be competitive in price with these large companies and, thus, I must depend on the purchases of customers
with more disposal income.

    I recognize that this is part --
that part of this is an issue of less
volume, but demand for what we are
producing is growing, however, a lack of
local slaughter infrastructure is the
greatest barrier that we face and one that
will severely inhibit opportunities for
small and midsize poultry producers in the
future.

    And I do have some
recommendations if that would be okay.

SECRETARY VILSACK: If you could
just summarize them just because we're
running out of time. I need to give
Christine five or ten minutes.

    MS. PRIDGEN: I think that USDA
needs to finalize some mobile meat
processing unit regulations so that we can
get back up and going to help get local
poultry slaughter infrastructure within
communities to help rebuild this local food
system.
And what's desperately needed is we need a requirement to allow states to -- to allow all states to allow 20,000 bird slaughter out from under USDA -- under this USDA exemption until this poultry -- the USDA poultry slaughter infrastructure is rebuilt. So we need that as an interim situation.

USDA grants and loans need to be clearly targeted to facilities for small and midsized independent producers or either producers form in cooperatives.

The other things we really need for USDA to -- to -- USDA's Rural Development funding for business and industry loans in order to guarantee these loans for the bricks and mortar construction on small and mid scale slaughter facilities.

I would like to ask for more coordination across the Rural Development Programs. For example, the USDA value added grant provides for feasibility
This funding would -- could be used by a group of poultry farmers to work with economic development entities to see how many chickens would need to be grown in order to build a processing facility.

Also, I'd like to see USDA FSIS to work with owners of small, independent red meat slaughter houses to add a poultry slaughter line and to help them with facility design so that they could meet the regulations.

The last thing I would like to say is I would like for you to consider how best to implement these recommendations.

And what I want you to think about is if the next generation finds that the only pathway into poultry farming is to incur huge amounts of debt with no assurance of being able to pay it back, they may wisely decide not to farm.

SECRETARY VILSACK: We just had an interesting briefing yesterday with the national press and some of the press in
Washington, D. C. about *Know Your Farmer*

*Know Your Food*.

We just completed an inventory, a mapping inventory of all the processing facilities in the country both in terms of cows, in terms of pork and in terms of poultry, and also the rendering facilities. And tried to match it up with where the smaller producers are so that we could determine where the gaps are.

Our Rural Development folks were in the room, they are a part of *Know Your Food*, and they are interested in using the BI program -- this industry loan program to try to make loans available to those who want to get into that business. And, as you know and as you noted, we were are working on regulations relative to these small mobile units. And we have already begun to fund a number of them and we will continue to do that.

So there is a process underway now in the last year in the Obama
Administration to try to create some energy for that type of activity.

    Shane, let me give you an opportunity to comment briefly on the GIPSA, DOJ issue and then I'd like to turn it over to Christine for any questions or comments she has.

    MR. WOOTEN: I've never had -- I've been fortunate, I haven't had some of the situations that some of these other growers have and concerns and things that have happened to them. So, personally, I would -- I don't know much about the GIPSA regulations and stuff. But the only thing I would say about it is maybe make it more public of how to start that process because, you know, I've never needed to, but if I did, I wouldn't know where -- where to start.

    SECRETARY VILSACK: Well, mention was made of Dudley Butler. And I just -- you know, just so you know, this guy is here today doing his job. His farmstead
was recently, for all intense and purposes, totally destroyed, with the exception of his home, as result of recent -- recent tornado. So, Dudley, we appreciate you being here notwithstanding your own personal circumstances.

MR. BUTLER: Thank you.

MS. VARNEY: Well, Secretary, I have to say the panel has been eye-opening for me and I have lots of follow-up questions that I don't think I'll be able to get to today. So you can expect to hear from me.

But, Mr. Staples, let me say I fully expect you will not experience retaliation by virtue of your presence today, but if you do, you call me at this number because I want to know about it.

What I really want to follow-up on, Secretary, is this competitiveness on the contracting side. And I have a couple of questions that I'd like to get the panelists to think about if we don't have
time talk about now, so certainly during
the break and afterwards.

I'm very interested in your
experience after 23 years when you were
terminated. Were you able to switch
integrators? Were you able to go somewhere
else?

MS. MORISON: No, we weren't able
to switch integrators. Again, even though
there's four companies in the area, what
one wants, they all want.

ASSISTANT ATTORNEY GENERAL
VARNEY: How does that -- how does that
actually work? I would think that a grower
with your -- with your reputation should in
a -- in a competitive market be fairly --
it should be fairly easy to switch?

MS. MORISON: It -- it really --
I don't think it really matters as far as
reputation goes, it's just a matter of they
won't put chickens on the farm and they
won't give you a contract, you know. The
upgrades that were demanded of us, had we
gone to another company, they would have said the same thing.

And even though, you know, we had a good growing history, we wouldn't have had one with another company, we would have been starting out at the very beginning with a record with a new company.

ASSISTANT ATTORNEY GENERAL

VARNEY: So, then, it's a reduction in capacity if they're not replacing it or are they expanding somebody else's capacity?

What happens when --

MS. MORISON: All the --

ASSISTANT ATTORNEY GENERAL

VARNEY: -- you're taken -- when your contracts are terminated, is capacity just reduced in your area or do they --

MS. MORISON: No. They -- they get other people to build houses or, you know, they phase in more birds in other places.

No, they -- every year in our area they are increasing production. More
-- more birds are being produced every year.

ASSISTANT ATTORNEY GENERAL
VARNEY: And I'm very interested in the upgrades that you all have talked about. Can you tell me a little bit, because I'm here to learn, I don't know that much about your industry.

What, in your view, are the kinds of upgrades that are reasonable and appropriate and right for the integrators to be -- wanting from their growers? And what are the kinds of baskets of upgrades that are, in your view, are used basically to -- to take you out of business, which is what I'm hearing you say today.

MS. DOBY: Well, sometimes the upgrades can be -- it depends on what they're asking. Now -- and another thing, it might be the company -- okay. You started out building houses by the company's specs, okay. And then the company, they decide, well, you know, we're
-- we're not going to grow this six pound bird anymore, we're going to grow a nine pound bird.

So that means although you just built these houses four years ago, you're going to have to go back in debt $80,000 because we want these big fans put in there. We want more, a cooling system put in there because we're going to this bigger bird and it's got to be cooled more. So the grower foots that expense for the company to grow the birds that's going to make them more money.

And the thing about it is when you put those upgrades in sometimes like the companies will say, "Okay, we're going to give you -- you do this and we will give you a little bit extra".

But that extra will never cash flow to the pay for that expense. And that's where the grower gets into the debt problem.

MS. PRIDGEN: What I would like
to see is from our family's experience and the community's experiencing in North Carolina, these companies are always looking -- when they're looking at expansion, they're looking for new houses, I mean, the newest houses that they can get.

And what I had talked about earlier that happened is when the tobacco allotment buyout was going on, there were farmers who had houses that had been taken on by this company that were former Perdue Growers and they were taken on by Case Farms.

And in that situation they built two new houses to Case's specifications for Case. But what Case did was went out and talked to some farmers who didn't have -- didn't grow poultry, into building brand new houses for them. And, so, when they got those brand new houses, those new farmers to start growing, they went back and dropped those houses that they had
initially taken on as the former Perdue Growers.

So, now, this farmer may have four houses or six houses on his property and maybe only two of them have chickens in them and the other four, even though they have the same equipment in them, you know, don't -- don't have that.

ASSISTANT ATTORNEY GENERAL
VARNEY: And then one other question that I have that I think I will probably have to follow-up with more off line, but if anyone of you could tell me, are you in co-ops? Are there co-ops for growers?

Does Cooper-Volstead work for you?

MS. DOBY: There was one a co-op and it was closed. And that was the last one.

ASSISTANT ATTORNEY GENERAL
VARNEY: And why don't co-ops work? You're all shaking your head no. Tell me why.

MR. STAPLES: They probably
would. It's just -- I guess you need to
know some poultry growers. It's just hard
-- it's hard to get a lot of poultry
growers to say yes to anything together.
But that's probably one of the biggest
problems.

ASSISTANT ATTORNEY GENERAL
VARNEY: Any other thoughts on that?

MR. WOOTEN: Also we have several
grower based companies -- programs and --
and organizations.

I think the -- we had mentioned
earlier about the debt and the --

ASSISTANT ATTORNEY GENERAL
VARNEY: Right.

MR. WOOTEN: -- and -- and I
think a lot of growers are afraid to get
too involved with anything that would go
against the status quo because of their
debt.

ASSISTANT ATTORNEY GENERAL
VARNEY: Well, Secretary, I have a lot of
work to do from this. And I want to really
understand our role in the GIPSA process on
the complaint side.

    I'm wondering why complaints
aren't treated confidentially until a
certain point in time. I think there's
probably more streamlining we could do.
Whether or not GIPSA has the authority, we
can certainly provide troops and help and
do what we can do.

    I want to understand more about
the contracting practices and see what we
can do to help make sure that that's a
competitive marketplace.

    And I want to thank all of you.
I know you take time out of your -- out of
your livelihood to come here and talk to us
and on my part to educate me.

    Thanks.

SECRETARY VILSACK: I want to
join with the Assistant Attorney General's
remarks -- to the panel. I want to thank
you for taking the time and being able to
share, not only your personal stories, but,
in some cases, some painful stories of friends and neighbors who have been impacted by this industry.

My commitment to the folks who are here today and to poultry growers across the country is to continue to work hard with Dudley and those in the GIPSA area to make sure that our regulatory system is as good as it needs to be to make sure that growers and producers have a fair shake. I mean, at the end of the day that's ultimately what it's about.

I, too, have learned a good deal here. And I'm sure, Dudley, it's strengthened his resolve as well to do a good job.

This is obviously an issue that -- that will require a very close analysis. The Congress has directed us to do that in the 2008 Farm Bill. We began that process with the rules we published last year in an effort to try to make greater equity in the relationship and to make sure that folks
had notice that contracts were going to be terminated, that they weren't left without any opportunity to try to seek alternative contracts and alternate opportunities. But this is obviously a difficult issue, a set of difficult issues.

And I might say that it is reflective of a deep concern that I share with you today, and that is, about the future of our rural communities generally. I think it is very important for the rest of the country to know what you know about the challenges and struggles of producers in this country. I think the rest of us take what you—all do for us for granted, whether it's the producers, or whether it's the folks who process and slaughter the livestock or the folks who -- who pick our fruits and vegetables along the entire stream here, we, as a country, do not appreciate and do reflect our appreciation for those who give us a safe, abundant, affordable supply of food, which is really
puts us in a much more competitive circumstance economically.

So we owe you a fair shake. And I'm committed to doing that as long as I'm the Secretary of Agriculture.

With that, let me ask you to show your appreciation for the panel and we will reconvene shortly after lunch.

(Whereupon, the taking of the proceedings were recessed from approximately 12:00 p.m. to approximately 1:00 p.m., after which the following proceedings were had and done:)

MR. FERRELL: I think we'll get started.

In the front, and the people in the middle, if you want to provide comments -- if you want to provide a comment, you should have picked up a ticket at the -- at the front of -- as you came in the building.

And what I'm going to ask is, I'm
going to ask -- there's going to be a
couple of options here.

We have two microphones up front
here. And if about, you know, five to ten,
twelve people can get in a -- in a row on
each side in front of the microphone.

And you're going to have two
minutes to provide some comments.

Our goal is to get as many folks
who would like to provide a comment the
ability to do so.

So as you come up to the
microphone, we'll have someone that's going
to take your ticket from you. So that way
we know that everyone who wanted to provide
a comment has -- has be given the
opportunity to do so. And then we'll pick
this up again later on this afternoon.

For -- for growers who do not
want to speak at the microphone, we have
other -- some other options as well.

Straight out these double doors,
down the hallway, we have a conference room
off to the left. And we have some GIPSA employees that will take your comments directly that way as well.

So if you -- it's up to you where you would like to provide your comments.

So why don't we go ahead and get started and we'll start on this side.

BROTHER DAVID ANDREWS: Thank you. My name is Brother David Andrews. I am here reading the statement of a grower who not only couldn't -- was afraid to come as well as afraid to speak. So I'm speaking on behalf of someone else.

First of all, let me give a word of gratitude for all the time that you have dedicated to this process. You and your time is greatly appreciated.

From a grower's perspective I want to assert that the system is broken. The current system is one that favors the integrators and allows for the manipulation of outcomes to growers primarily through the tournament system.
While the lack of competition creates one set of problems, the tournament system creates another set. It takes money from the growers and gives it to another group. The grower has no control over the quality of the feed that gets delivered, nor how much of each type is delivered.

Another compound — component to the cost equation is the chick cost. The integrator has complete control over the quality of the chicks delivered to the farm.

Another form of manipulation is to exclude the best growers and worse growers in the average cost calculation.

Another aspect of the tournament system is related to time between flocks. The tournament system benefits the integrators when farms similar in performance sell in the same week. This is easily achieved by manipulating out times and grouping similarly performing farms.

The tournament system that is
common in the poultry industry is the only example that I know of that has the employees-growers subsidizing the success of the employers.

Thank you.

MR. FERRELL: Okay. We'll start over here. And if can you introduce -- if you can mention what your name is, too, that's helpful. Thank you.

TOM GREEN: Mr. Butler, poultry growers and other interested parties. My name is Tom Green and I'm a former Coffee County, Alabama poultry grower. Before that I -- I had a dual military career. I was an infantryman. And I served in the aviation branch as a pilot. I flew combat missions in Vietnam and also served as a public affairs officer at the Army Aviation Center.

My wife and I went into the poultry growing business in 1990. I was 52 years old at the time. We were both excited about going into the
new business, totally different from
anything in our past. Poultry fit our
plans that would take us into our golden
years.

We invested a little more than
$500,000 to build four 500 foot poultry
houses on our 90 acres of land just south
of Enterprise. And we depended entirely on
company advice and the SBA and our bankers.
The SBA financed -- they didn't finance,
but they guaranteed our loan.

As frequent problems arose
repetitively we -- we sought advice from
other growers. And over time formed a
cooperative that gave us better prices on
supplies and equipment, and all growers
needs that we could fill outside of the
company influence so that we could bring
our prices down.

It also served as a forum in
which growers could come together, discuss
issues and express solutions. We
communicated with the USDA packers and
stockers to initiate investigations of irregular suspected and greater activities. We appealed to DOJ's Antitrust Division on issues. I had one substantive complaint forwarded to the DOJ from packers. And the action -- for an action review. It was returned to me 14 months later without action.

As a cooperative we participated in workshops to explore ways to improve our company-grower relations. Contract equity was our primary goal.

Our contracts continued to be written on a flock-to-flock basis and could be terminated by either party with a 10-day notice for any reason or no reason at all.

These contracts were written at the grower's expense for equipment, trial and error housing upgrades and no regard for compensation to offset expenses.

In October 1995 Hurricane Opal -- Opal blasted through Alabama and took out a large number of poultry farms. Many of the
more vulnerable, older farms were totaled. This gave the integrators an opportunity to bring new projects on, which they vigorously pursued.

Along with the expansion of new farms, the integrators demanded upgrades for tone ventilation and new equipment for the older farms, for the ventilators on those farms, which, at that time, would have been a one hundred thousand upgrade to our debt load.

Our new -- our new contracts contained upgrade requirements. Also contained a demand for growers to sign mandatory arbitration in order to settle any disputes that may come up.

Any -- any grower not signing the arbitration clause by January 15, 1996, will be terminated and would not receive chickens. This was also brought to the attention of the packers and stockers, and they sent somebody down to investigate and it resulted in nothing.
MR. FERRELL: Sir, if we can make -- we're going to try to make sure we get everyone as possible.

MR. GREEN: Okay. I've got one paragraph left.

MR. FERRELL: But in our next round of comments, we're going to try to get as many people so you might be able take another crack at it.

We just want to make sure that everyone who's come here, at least, one chance.

MR. GREEN: Okay. This was the straw that broke the camel's back -- broke this camel's back. And my -- Ruth and I talked about it at length about the principles, about what happening to us.

We talked to lawyers, packers, Birmingham SBA, everybody. Nobody could help. We were not allowed to sell our houses and we were not allowed to go with any other of the other companies of the three that were working in our area.
Ruth and I chose to stand our principles. We did not give up a fundamental right to access the public court of law and guaranteed -- which is guaranteed by our Constitution, regardless of price.

I had flown too many combat missions defending that Constitution to forfeit it.

It was truly ironic that protecting one right, we lost another. We lost the right to property. We lost 77 acres, four outstanding poultry facilities and five years of hard work. It was sold for a hundred and seventy-seven thousand dollars salvage.

We were denied our right to property by the company acting unconscionably and in my military mind, they were criminally acting.

Thank you.

CRAIG WATTS: My name is Craig Watts. I've been a contract a poultry
producer since 1992. I'm careful not to use the term independent because I do not feel today that we're independent, I feel like we're more of a captive supplier.

The competition on the production end of -- as it relates to us, the growers, it does not exist, it does not exist. We have no voice in an industry that we're so heavily invested in. Growers mortgage farms and homes based on an assumption that the relationship with the poultry company will be long term and mutually beneficial, but what we get is a growing agreement with no security at all.

Contracts can be terminated at any time for any reason and as growers we have no recourse. Contracts can be changed at any time for any reason. And we're, you know, forced to sign a contract whether we like it or not on a take it leave it basis because, you know, we can either sign it or face bankruptcy. It's almost like asking a question, would you rather drown or burn?
Either way, it's not a good way to go.

Another major issue is a method of compensation, which this has been beat to death, but it's called the ranking system or the tournament system. I've heard it called a reward system, when it's actually the grandest Ponzi scheme that's ever been invented.

Timing is everything. What you get, who you get, when you get it has more to do than any managerial decision that I'll ever make. And -- and also influences my compensation, you know.

The ranking system serves as a cost control method for the companies. That's what it boils down to. It's no reward system for a grower, you know. They say, "Well, it's the bad growers come out here and do the complaining".

I've got proof different. For what it's worth, I'm a very above average grower, but I see the faults in it. For me to make it up here, somebody is getting rid
of down here. That's the way I see it.

Anybody in this room knows that there is no such thing as a level playing field, the inputs. There's just too many variables. Quality of chicks. Quality of feed. The feed deliveries. And the beat just goes on, you know. The stuff that's outside of our control is almost endless. That is irrefutable.

But when they want to compensate us, they pretend we've got a level playing field.

All I ask you to do, as Congress, is prohibit poultry companies from being able to cancel our contracts just arbitrarily. Ask the USDA and the Department of Justice to declare the ranking system unfair and deceptive.

Thank you.

WARREN GRANGER: Good afternoon. I'm Warren Granger from Alva, Oklahoma. I'm a former poultry farmer of 22 years. I grew chickens for a large Arkansas
multinational company.

This hearing is a monumental event for growers in America. As a poultry grower I spoke out about the unfairness of the contracting system through state and national poultry organizations and any media that would listen.

Several pieces of state and national legislation were introduced over the last three decades, only to be stifled by lobbyists of big chicken. Numerous complaints were filed by me and many others to the Packers and Stockyards Administration, but to no avail. Growers were told that the PS&A has no teeth to enforce legitimate claims of the many injustices inflicted on growers as is David against Goliath.

15 years ago I secretly recorded the broiler plate pay clerk telling me how I and members of the Oklahoma Contract Poultry Growers Association were targeted and how my grower pay was manipulated for
trying to bring about change to an unfair contracting system.

This sound recording was turned over to the PS&A at that time. We were told that the DOJ, Department of Justice, was understaffed and only went after the big stuff.

Recently 50 poultry growers in Southeast Oklahoma filed a lawsuit against a giant poultry company from Arkansas for fraud, negligence and violation of the Oklahoma Consumer Protection Act.

Groups of seven growers at a time are scheduled for separate trials over the course of the next several months. The first trial ended in April with the first group being awarded 8.3 million. Punitive damages were rewarded against the company. And by the way, my secret recording of 15 years earlier was used as evidence in this trial.

Question, why are some of our land grant universities advocating for the
large poultry farmer? Right here today we have a PhD that will be on this panel after while that testified for the giant Arkansas corporation in the Oklahoma trial from Oklahoma State University. I thought land-grant universities were suppose to research and teach prospective ag producers viable methods to produce food and fiber as to receive a fair and equitable return on investment. Why are PhD's testifying for big corporations against the growers?

The poultry farming business is misaligned. We need your help to level the playing field.

I would like to say thank you to the Secretary of Agriculture and the U. S. Attorney General and all these other officials for hearing the concerns of farmers across America.

Thank you.

MR. RUDY HOWELL: My name is Rudy Howell and I'm thankful y'all are listening to us.
I have grown birds 15 years and I am very concerned about the payment system that being based on true competition. Grower pay can be easily manipulated by the company. For instance, incorrect feed deliveries, incorrect feed weights, inaccurate bird count and easily changing documentation, all of which affect grower's ranking and pay.

I feel like the USDA and the Department of Justice should take aggressive action to enforce the law against unfair and deceptive trade practices and acknowledge the current pay system as unfair and deceptive.

Thank you.

MR. LAMAR JACKSON: My name is Lamar Jackson. I've been growing poultry for 30 years. And I would like to thank you people for coming here today, distinguished guests. I could spend all my time thanking you for just being here. It's a great pleasure to have somebody to
listen to us.

   We, as growers, appreciate your concerns for our well-being in becoming successful growers in these United States. Integrators, in general, want everything left alone. They want no new laws to interfere with their business as usual policy as they have it now. The system is definitely a broken one in extreme need of repair.

   This administration has an opportunity to help individual growers who supply our nation, as well other nations with a healthy food product, poultry.

   We need the USDA packers and stockers to mandate policies that enable our already existing enforcers, along with the Department of Justice, to be able to rigidly enforce and prohibit mandatory upgrades on housing and equipment that are totally unnecessary to the cost effective production of poultry in this country.

   These upgrades require countless
more hours of kilowatt energy to produce these birds to market. Keeping the grower in constant debt gives the integrators assurance that these growers will have to continue to grow poultry for them. This eliminates competition and thus makes their stronghold on growers evident.

Let me say that numerous growers are not attending these workshops because of being afraid of retaliation on them by their integrator. A grower this morning has already been threatened by his service person if he attends and speaks at this forum.

All the integrator has to do is make sure that particular grower receives inferior chicks to start a grow out with and maybe short his feed delivery, which can lead to a higher feed conversion rate. This happens, really it does. This is the type of undue fair practices that need to be addressed now. Our payment ranking schedule is also totally unfair. On a farm
the size of mine, which is a hundred and
eight thousand broilers, my paycheck, in a
five-week grow out period, can vary as much
from $22,000 gross down to $11,000 for the
same amount of chickens. This makes it
impossible to meet financial obligations
and be able to plan any future endeavors.

Please enforce the laws already
in place by giving the USDA and packers and
stockers real authority to do their jobs in
order to help us and this industry.

Thank you very much for your
time.

MR. BUTLER: Hold on, hold on
just a minute. This is Alan Christian, my
deputy. I want you to tell him about who
got threatened, not -- not right here, just
go back and tell him who -- what the name.

MR. JACKSON: I sure will.

And I did say this, one more
time. I've been doing this for 30 years.
It might be just 31 because I'm gone, too,
but that's okay.
MR. MICKEY BLOCKS: I'm Mickey Blocks.

The lack of competition in a given geographic region has led to integrators with all of the power, this leaves the grower with little or no choice. The grower is given a contract, it's one sided, it's a take it or leave it situation. Companies should not have that much control in a region.

DOJ and USDA need to do everything possible to limit this type of power because this power is unfair and deceptive practices have developed. For example, the ranking system, forced upgrades, contracts that can be changed or cancelled at any time. Compensation, as I have not kept up with increases in energy and material costs. These are all signs of a broken system that needs to be corrected as soon as possible.

Thank you.

MR. ROBBIE STAULTS: I am Robbie
Staults from the Shenandoah Valley of Virginia. And I want to thank you for taking time to listen to my comments.

I'm here to share my experience with contract poultry production. In 1979 I bought a two house poultry farm contracting with a major chicken company. The income from the farm was enough to allow me to pay labor and my bank note.

Things were going so well that in 1992 I decided to build two additional houses. After five years, I was required to perform company upgrades to all four houses. During this time operating expenses were on the rise, but pay from the chicken company was not being increased.

Now, I have an increased bank note along with increasing expenses, but my income, it remains static.

My plans for early retirement began to evaporate. After a couple of years operating in this manner, I came to the realization that I was never going to
pay for these new houses. This is a common cycle that chicken farmers are trapped in. Does that matter, does it matter what state or region you're in? No.

That's why today is so important. We need USDA and the Department of Justice to stop requiring growers to install expensive upgrades in their poultry houses at their own expense.

And Congress should stop poultry companies from cancelling grower contracts without adequate faults, unless they reimburse growers for the investment they made to service the contract.

Thank you for your time.

MR. FRANK MORRISON: My name is Frank Morrison. I am an ex-contract poultry grower from Maryland. Our contract was terminated two years ago due to not upgrading to the company standards.

One of the major challenges facing contract growers is the ranking system. I have an example, which happened
to us. I could purchase propane for 30% cheaper than what the poultry company was charging us. When I informed the company I was going to purchase and supply my own propane as any independent business person would, I was told if I did not -- if I did, my contract would be terminated. Even if we wanted to be competitive, the company will not let us. This contract system has taken away the entrepreneurial spirit of the farmer who has for decades found ways to reduce costs on their farms to stay in business.

The USDA and DOJ need to take aggressive action and enforce the law against unfair and deceptive trade practice by the poultry companies.

Thank you.

MS. VALERIE ROWE: Good afternoon. My name is Valerie Rowe. I'd like to thank you for this opportunity to speak with you today regarding the current situation as a poultry grower.
I became a poultry grower four years ago. I did this in an attempt to save a family farm that was in the process of foreclosure due to an unfair contract. That resulted in my elderly inlaw's birds being cut off, without notice, on the day of delivery, because they refused to make expensive and unnecessary upgrades.

The problem has turned out to be an industry wide issue regardless of who you grow for or what type of bird you raise. I have learned that a contract is a contract in name only. Mine was suppose to be a 5-year contract. It has changed four times in as many years. Integrators routinely rewrite these so-called contracts to their benefit whenever they see fit. And depend on the fact that the grower is deep in debt and will sign them out of fear in order to continue getting checks.

I thank God my husband and I have nonfarm jobs. Without them, we could not afford paying out of our pocket to raise
chickens. We will not be able to continue this much longer.

The solution to this systemic problem: The USDA, along with the Department of Justice, must exercise their power and stop these unfair contracts now.

Thank you.

MR. WILLIAM CRAMER: Thank you. My name is William Cramer and I work for the Interface Center on Corporate Responsibility. We are a faith based membership organization who investors members own a hundred and ten million -- billion dollars in shares in companies like Tyson, Smithfield and Hormel. Our members come from a variety of faiths, Methodists, Baptists, Episcopalians, Catholics and many others. In addition to owning shares in major meat companies, restaurants and food distributors, our members also manage large health care systems that buy a lot of food.

Our members are increasingly concerned about the conditions under which
their food is produced. They're especially concerned about fair treatment of poultry growers and chicken processing workers.

We believe strongly that contract poultry growers are the backbone of the rural economy in the South. When they are paid low prices, they make poverty wages and that hurts rural communities.

We also feel that the industry, as currently structured, is unfair to workers. The lack of competition and poultry processing means companies can violate workers' basic rights and disregard health and safety. As a result, worker turnover at poultry averages about a hundred percent a year. We need good jobs in rural areas of the South and this industry isn't providing them.

There's enough money in the supply chain for everyone to get a fair share, but we need to enforce regulations that promote fair competition so mega corporations like Walmart and Tyson don't
take more than their fair share.

The poultry processing -- the United of States of America was founded on principles of freedom and free enterprise. Without fair competition, we do not have true freedom or free enterprise. The poultry processing industry in America is increasingly monopolized and that is un-American.

Our organization and people of faith around the country are watching these hearings and other efforts to restore competition and fairness in food and agriculture in America. We hope to see better enforcement of our existing laws and more effective regulations coming out of these hearings.

For people of faith gathered here today I ask you to consider the following questions: If Jesus were here today what would he say about grower fairness and worker justice? Who would he support?

Thank you.
MS. ANGIE TYLER: Thank you for hearing our concerns and I hope you're compassionate.

My name is Angie Tyler. And I'm the only grower here from Louisiana. So I proudly represent every one of them. It's been a tough year for us.

My husband and I have been raising broilers for 20 years now. And, as I said, I'm the only one here from our state.

There's a lot of things that need to be addressed. And this is not one producer, this is not one integrator, this is nationwide.

And the decisions that y'all make here today and in the weeks to come, months to come, even years to come, can be remembered by the whole agricultural community historically. This has never been done before.

And what we feel is that the USDA must take action immediately on any unfair
practices. The poultry farmers in our
country are on the brink of collapse. The
ranking system of payment is obsolete, it's
broken, and it needs to be changed.
There's too much room there for
manipulation. And there's no checks and
balances whatsoever.

And because costs have far
exceeded the pay raises, producers cannot
pay their bills, they can't pay the
production costs. Energy has increased so
many times more than the pay has increased.
And many times the pay has gone down. The
USDA needs to enforce laws already in place
and investigate these unfair practices.

Poultry remains the most
economical and healthy source of protein in
our country. As the demand in domestic and
foreign markets increase, along with the
population, our poultry production has to
increase also. The farmers are absolutely
mandatory for this. And we must ensure,
not only survival, but the potential for
success and progress as our future. And we're relying on you for that help to make sure that we can stay in business and do our jobs and do it right. And we want to do that job in a marketplace that is fair. It's our future.

Thank you.

MR. CHRIS SANDERS: Good afternoon. My name is Chris Sanders. I'm with United Food and Commercial Workers.

On behalf of my president and the thousands of members and my local union in Kentucky and Southern Indiana, and dozen of people wearing gold shirts in this room, my brothers and sisters, and literally 250,000 poultry workers across America, we want you -- to ask you to pay special attention to the needs of folks who kill, cut and process chickens.

We're here about competition in issues in agriculture, but agriculture is nothing without consumers and, of course, retailers.
So pressure on growers and vendors, producers and us all across the industry come from the margins that are dictated by retailers. I don't mind naming names, I'm talking about Walmart. Until we get some grip on the control that major retailers like Walmart have in this industry, we won't get anywhere. Walmart, of course, is not the only grocer in this industry, but all grocers are taking their cues from the -- from America's largest grocer, Walmart.

In competition we all know the word monopoly, the control of whenever one supplier has a grip on the industry. But I want us to learn a new word today. It's monopsony. Monopsony is the tyranny of the retailer when all roads and all product goes to one place. And that's Walmart.

We have to do something about this because until we do something about Walmart its pressures on agriculture margins, we really won't get anywhere at
For our people, for my members and my industry, we can't make a living wage until Walmart is able to pay the companies more. It's just a fact, it's reality. There's so much pressure on margins that everybody is getting -- is getting squeezed. And for our folks, Black, White, Hispanic, just doing their best to make a living wage, that will never get any better until we get some improvements in the way that Walmart has a grip on the industry.

So I'm here today on behalf of 200,000 poultry workers or more. Please do something to put real competition in retail so we can all survive and thrive.

Thank you.

MR. ANDY STONE: Hello. My name is Andy Stone, I'm from Mississippi. I've got a couple of comments to make on some stuff I heard here today before I get started reading my statement.

One of the things that was mentioned here today was communication was
a problem in the industry. I can assure you not. I've had a lot of communication with my integrator, sometimes at arms length, sometimes nose length, nothing changed when I left.

And y'all's challenge here today is listen to us communicate to y'all, but if y'all do like the integrator, when I leave, if y'all don't anything, we're not any better today than we were yesterday.

When I started growing chickens in 1995 I bought land and moved 60 miles from where I grew up. I moved to the broiler capitol of my state.

I did this thinking that I had a -- that I had a reason -- that if I had a reason to switch from one integrator to another I could. After a few months into the business I realized that the integrators have an unwritten pact with their sister integrators, "You don't take our growers and we won't take yours".

I built three modern houses,
equipped it with all the bells and whistles available and approved by the integrator. I had a 15-year note and a $300,000 loan, but my contract was good for one year.

I remember expressing my concern to a company representative and being told, "Don't worry about that, we will always need chickens, that's just how things are done". Six months into my first year my representative came out and said that the company was offering a raise. I said, "Wow, that's good. Six months into the business and already going to give me a raise".

However, there was a small stipulation attached to this raise. To get the raise, I had -- I had to add equipment to my houses.

I told the representative, "I don't want to add equipment to my houses, they're new". He said, "Fine. If you don't add the equipment, you won't qualify for the raise". So I added the equipment.
My problem is that there is no guarantee that my integrator will continue to contract with me. As a result, raising chickens involves a tremendous -- tremendous sense of insecurity.

This past February I received a letter from my integrator stating, and I quote, "If you fail to provide the proper environment, we may not be in a position to place birds in your care in the future".

I received this letter because my service representatives noticed several blind birds on my farm. At the time of the letter my overall ranking was in the top 14%.

Since that time, overall ranking has climbed and put me in the top 10% of the company, yet I have to wonder from one flock to the next if my company will be in a position to put birds in my care.

This insecurity hangs over my head each day that grow chickens. You can argue this and say no one's job is secure
in today's economy, but the situation is not the same. Your job is a job. My job is a job with a huge debt attached to it. With my debt load, coupled with my standing in the company, I should not have to worry about the company being in a position to place birds in my care.

The situation in contract poultry growing is out of control. The companies have so much power the growers always end up at a disadvantage. It's time for the government to step up and rein in these companies so that growers are treated more fairly. That's why the hearing today is so important, but a hearing isn't enough. We need the USDA and the Department of Justice to stop poultry companies from requiring growers to install expensive upgrades in the poultry houses at their own expense.

And Congress should stop poultry companies from cancelling growers contracts without adequate cause unless they reimburse the growers for the investments
they've made to service the contract.

Thank y'all.

MR. BRUCE FAULT: My name is Bruce Fault. I'm from Fairmont, North Carolina. And thank you for this opportunity to speak with you.

In an effort to remain within the time allotted me, I would like to address the quality of birds that are supplied to me by my integrator.

In my experience of 16 years, if I am supplied with a good quality input I am able to grow a good quality chicken. If the quality of the chicks is poor, we are unable to produce enough weight to pay the bills. We work harder with a poor flock than we do with a good flock.

Under the current ranking system this can significantly -- significantly impact our overall income. The ranking system is just unfair and needs to be corrected immediately. I would like to see the USDA, along with the DOJ, use the tools
already available to them to stop this unfair pay system immediately.

Thank you.

SHEILA: My name is Sheila. I would like to say that we really enjoy the chicken business and the company we work for, but we would like to see a few changes to be made. We would like the ranking system to be different because of the unfairness of it. Your ranking depends on the quality of chicks, age of your houses, houses being premium or not. We cannot control the quality of chicks we get because of such things as diseases, the handling of the eggs and the delivery of the chicks. Things can go wrong not being there on the spot, but at the end of batch we are asked what went wrong, why does certain things happen such as the chicks did not grow, they did not put on weight or they lost their life.

And then it starts, you need to upgrade to premium so you can do better.
We tried to explain upgrades cost money, which we do not have. And their solution to the upgrade is that you will get the incentive pay, which is a half cent more per pound, which will not pay the loan back, for the upgrades, in a reasonable amount of time.

And with chicks being the company's, we would like to see the company contribute more than just two incentive checks per year for the propane, which is greatly appreciated, if fall in the right time frame.

The farmer has to take care of the litter. And we have to do the PLT, the PWT, the sawdust and light bulbs except for two loads per house per year. The utilities, such as gas, propane, diesel, electricity, water, supplies and maintenance. It would be nice if the company would help more and give a cost of living raise since we have not had a raise in about three years or more, but that does
not stop the rising prices of the gas and
the diesel, propane, the electricity and
supplies.

My husband and I have had to go
to our banker several times to try to get a
solution to keep paying our loan and our
bills from batch to batch. And the banker
has said to us he does not know how we have
survived and how we are making it. Now we
are trying to reduce our loan just to make
it. And we are trying to -- just trying to
pay our bills and the credit cards off from
the propane.

Again, I would like to stress as
to how much we enjoy the chicken
business and we would like to see the USDA
and the Department of Justice declare the
ranking system as an unfair system and to
stop poultry companies from requiring
growers to install expensive upgrades in
their poultry houses at their own -- at our
expense.

MR. JAMES SHACKLEFORD: Yes. My
name is James Shackleford and I'm here representing RWDSU Workers of America. And it's an honor to be here today before you.

You know, after working 18 years in a poultry facility, poultry plant, chicken plant, you know, and the things that you see go on and people talking about it's not enough, you're not making this, you're not making this. It's just a blessing for me to be here to see both sides of it because I never knew, you know, this side of it.

I was granted to be a representative -- a union representative three years ago and now I see the other side. And that's why I'm here today.

And it's not about I, I, I, it's we, it's a team thing. It's no I in team because you have the growers, you have the producers, you have the packers, you have the laborers. And the laborers, you know, I come to stand and look out for the laborers today because without the laborers
you have -- you have no -- no product. I mean, you know, the worker they -- they put it on the market.

Also consumers, all of us are.

I just left a restaurant just a minute ago and they couldn't keep enough off it on the bar, you know. So it's not shortage of it, we've just got to figure out and get an understanding of where -- where the monies -- the monies -- you know, to fairly distribute the monies, you know.

I'm here today to stand and look out for -- for my workers because without it, you know, you're not going to have -- I heard a guy say today about vision for your child, you know, the grower, I understand that. But also the worker have a vision also. And their vision is to want their kids to work in a poultry plant and make a decent living. And, you know, after working 30 years in a poultry plant, leave with a decent pension where you can enjoy a decent life, but not to automatically write
the worker off because the worker do play
an important part also.

So I just -- I pray that God
bless the producer and God bless the packer
because when you guys get together and you
can come together in -- in peace, it makes
it great for the worker.

Thank you.

MR. TOMMY HINES: My name is
Tommy Hines. I'd like to comment on the
systemic problem that the poultry industry
has within intimidation to the growers.

I've spoken to numerous growers
about attending this meeting, but most of
them were afraid to come for fear of
retribution from their poultry company.

As growers we have invested
everything we own in this business. The
industry does not treat the grower as a
contractual partner with the company, we
are merely someone hired to take care of
the birds for them. You have to do as you
are told or you could be refused placement
of birds or could face a drop in the number
of birds places or worse.

We need there to be more
oversight from the USDA, Department of
Justice or help from Congress and more
enforcement of the Packers and Stockyard
Act. There is a lack of competition from
the companies for the growers in business
now and, therefore, no incentive to change
the behavior towards the grower. There
should be mutual give and take and mutual
respect as business partners.

I'd like to say thanks to the
growers here today for taking this
opportunity to show support for this
workshop and a chance to be counted and our
hope to change this industry.

Thank you.

MR. STEVE ETKA: I'm Steve Etka.
I'm Legislative Coordinator for the
Campaign for Contract Agriculture Reform.

Poultry is arguably the most
broken of agricultural markets where the
processor sector has such total domination that producers are coerced, not only to sign one-sided take or leave it contracts, but also to borrow as much as a million dollars to build facilities on their own farms for the right to grow the company's chickens with merely a one flock, seven-week guarantee of payment.

And the payment, itself, often represents a negative return on investment.

To anyone hearing this it would sound like one of the worse investments possible and anyone would be foolish to fall into such deal, but the growers that get sucked into the systems are not stupid, far from it.

For a poultry grower the cycle begins with deception about the income stream a grower will enjoy if they build the expensive chicken houses and signed the contract. But the rosy plans of income are never put into writing, so there's no way to enforce the promise -- the promises.
The contracts themselves are quite another story, but once the grower bites the hook and goes deep into debt they start a cycle of debt burden from which it is very difficult to escape.

The attention of USDA and DOJ that you all are giving to this issue today is quite historic. And I applaud both agencies for hosting this discussion and for asking the right questions. But this process will be meaningless unless it ushers in an era of aggressive enforcement. Both the Packers and Stockyards Act, as well as the DOJ Antitrust authorities, to restore competition and fairness to the poultry sector. Though not perfect, these statutes are very strong and the failure to enforcement by your predecessors has been nothing short of shameless.

In closing, it's important to mention that the growers who are speaking here today do so at their own risk. And you've heard a lot about that. The threat
of retaliation for a grower speaking out
publicly is well documented. And even in
the last 48 hours we've had growers who
have been threatened not to attend this
meeting and not to speak out. So for every
grower here today, there are many others
who have stayed home for fear of
retaliation. And that is more than just a
communication problem.

So I strongly urge both agencies
to do everything in your power to protect
those growers here today from retaliation
and to take it the aggressive enforcement
action to bring some balance of market
power to the poultry sector.

Thanks.

MR. B. J. HYDE: Hi, I'm B. J. Hyde. I just wanted to touch on how we get
paid. We get paid by a feed conversion,
the amount of feed it takes to get the
birds to a certain weight. The problem
with that is the feed gets manipulated a
lot. For example, during the wintertime, a
lot of times they'll put this corn mash in it, instead of feed grain that they get out whiskey bales instead of corn, you know, should be in it. And we have no control over that whatsoever. It's -- it's just absolutely -- the feed conversion is where they want it. I mean, it's -- we have nothing to say about it.

I also want to touch on some of these upgrades that they make you do. They also want you to use certain vendors and such as that, they won't accept anybody else. So they kind of manipulate us that way, too.

That's all I've got to say.

Thank you.

MR. OMAR HOLCOMB: Hi, my name is Omar Holcomb. I live in South Marshall County. And I want -- two things I want to talk to you about. One is the political ramifications that are used in chickens. And the other is a little anecdote that happened to me recently.
Since I've been doing this for 17 years chickens has been used as -- has been a -- been used in politics. The first time was in the '90's when the steel imports for Russia were -- were -- protections, trades, were put on there. And -- and several ship loads of chickens had to turn around and come home from Russia.

And because somebody is protecting one industry, the farming industry takes it. And recently the -- there was protection put on tires from China. And China put -- turned around on chickens and stopped it. So our industry is being used as a, if you want, a political football. And it's a two billion industry in Alabama. And I doubt if the tire industry in Alabama is a two billion, but it's being used that way.

The second is a little anecdote that happened to me two weeks ago yesterday. As I had my chickens -- these growers will relate to this. I had my feed
up, chickens all ready, the time came, the
catchers all showed up and there we sat
because there was a bomb threat at both
processing plants. So we sit there for
about six hours. And I'm talking to field
rep, who's really been good to me.

She said, "Okay, they'll just
give you an hour each hour you wait, plus
20%". I said, "Okay, what's our options"?

"Well, you can wait another six
or seven hours, they'll come back at one
o'clock in the morning.

By then my birds will have been
off feed 18 to 20 hours before they pick
them up. That means another six hours
before they process them, or, said, "We can
go in there and lower all the equipment,
see if we can get some feed out here", and
-- because I was totally out of feed, "And
then we can raise -- and then we can raise
it all up and then process them".

Okay. We'll just catch them at
one o'clock in the morning. That's what we
both decided.

Well, I called them a few days later. "Well, what did they decide to do"? "You competed with everybody else", just like that. They lied to me just straight to my face. I had to compete with them.

And that wasn't quite fair, nobody on Monday, Tuesday or Wednesday or Friday had to wait for bomb threats to clear out. Now, I can live with that, but I don't like to be lied to.

So thank you very much.

MR. TONY GOOLSBY: Thank you. I appreciate this opportunity to get to address this -- this forum. I thank God for America and I thank God for being born an American. And I just praise God that I'll die as an American.

I was born in a little house on a farm in 1950, delivered by a midwife. I don't know how old I was before I ever seen my first doctor. I've lived on a farm all my life. All my ancestors were farmers.
And we go back before the Civil War. Some of my ancestors was here before the White man got here.

In 1997 there was a farm came up for sale, a hundred and five acre farm close my mother and daddy's homestead there. I wanted that hundred and five acres so bad, but I couldn't figure out a way to buy it.

I had a pretty nice little home and 20 acres down at Rainesville, Alabama. And this company named Cook Poultry moved into the area and announced they were building a new poultry breeder, hatchery and all that kind of stuff. And they were wanting people to -- growers -- wanting new growers, sign contracts and build houses.

I talked to my banker and I talked to my wife. And my banker said, "Yeah, we can go with you on it if that's what you want to do". So in 1998 we started the loan process. She and I sold everything we had. Took our savings. We
invested probably a hundred and fifty to a hundred and seventy-five thousand of our money. We borrowed $600,000 from the bank that was guaranteed by the USDA. And that guarantee was -- had an insurance premium on it that I paid thousands of dollars for -- for that guarantee.

Okay. In a few years into my contract with Cook Poultry they delivered a new set of hens to my farm. Later on that week they came in with a new contract. And they said, "Mr. Goolsby, we want you to sign this new contract".

And I said, "Well, I -- we've got a contract".

"No, we need you to sign this new one".

This is in 2002. And I had a contract that was still in effect. Had a brand new set of hens in these houses that was the top of the line, the best set of hen houses in the area. And I said, "Well, I don't -- I don't understand. I don't see
why that you want me to sign a new contract when -- when we're under contract with you now".

"Well, that's just the way it is. We want you to sign this new contract".

I said, "Well, I just -- I think I'll just go with the one I've got". And like Mr. Wooten earlier in the day had said -- I'm from the same county he's from. There's five different integrators in that area up there, you'd think there would be a lot of competition. I had the best set of houses in the country. I told them, "I'll just go with this set of hens and I'll -- and I'll see if I can find me a contract with another integrator".

They said, "No, you can't do that. You either sign this contract or we're going to come pick these hens up".

Now, these hens is already on the farm, done been there a week or two.

And I said, "Well, you can't do that, we've got a contract, you signed it
and I signed it and it's a legal binding contract, you can't do that".

    "If you don't sign this new contract, we're going to pick them hens up. We'll be here tomorrow morning at six o'clock to pick them up".

    The next morning at six o'clock, that was on a Wednesday, I was sitting in the driveway when they pulled in and I said, "You need to turn around and go back because you're not getting these hens. I've got a contract with you. And it's a legal binding contract. I'm going to hold you to it, you're not getting these chickens". And, so, they left and they went back.

    On Thursday they had nine lawyers in the judge's office in the De Kalb County Courthouse behind closed doors. And they got Circuit Judge Randell Cole to issue them a writ of seizure notice against me without my knowledge, without my representation, without any --
opportunity for me to give my side to the judge to show him my contract or anything. He issued them a writ of seizure. He sent a copy to the District Attorney's office. He sent a copy to the Sheriff's office on Friday. I didn't know the first thing about it.

Monday morning, about daylight, a deputy knocked on my door. And I'd done been up since about 3:30 because of -- you've got to get up early and go feed the chickens, make sure the thing is going. So I was sitting there drinking some coffee.

They -- they hand me this writ of seizure. And they say, "Tony, the judge has ordered us to come out here and see that the chicken company gets those hens out of your houses".

I said, "How can he do that? We -- I haven't been notified, I haven't had a hearing. I've got a contract. How can he do that"?

"Well, we're just doing our job".
"Well, okay".

They go to chicken houses. And I get in my truck and I go down there. There's things that needs to be done when you're going to catch chickens. You've got to get your waters up and stuff like that.

And I had read every word of the writ of seizure and it didn't say anything about me not going to the chicken houses. Me -- it just said I wasn't to interfere with them catching them.

I go down there and I raised my waters. And I tried to get my equipment ready. And the deputies come. And I come out of the chicken houses there.

And they walk up to me and say, "What are you doing down here"?

I said, "I'm trying to take care of my equipment I've got $500,000 in".

And they said, "Well, you're not suppose to be there".

And, so, I said, "Well, alright, I'll go home".
Well, they had the cars pulled in behind my truck and had me blocked. And they said, "No, you're going to stay here until the chief deputy and the investigator gets up here".

I said "No, if you'll just move your cars, I'll go to the house and get out of your way".

"No, you're going to stay here".

I hadn't broke any law. I hadn't -- you know, I had threatened anybody, anything.

So I get in my truck, it's cold weather. I'd just had an accident about a month before, broke my back, broke all my ribs, busted my skull. I was just nearly a dead man. Barely could walk. Sitting in my truck with the heater on and the other police come up.

And they jerked the door open and dragged me out of my truck and downed me and handcuffed me and threwed me in a police car and carried me to jail. Kept me
in jail all day, all night. Didn't book me, didn't fingerprint me or nothing until the next morning about four o'clock, 4:30 in the morning.

They came and got me and fingerprinted me and charged me with interference with a government operation, put a $500 bond, and released me on my own recognizance. Told me I could call my wife to come get me.

I went home and took a shower and I drunk come coffee, made a few phone calls, and I went Fort Payne. Went to my lawyer's office and gave her $5,000 to start defending me on them arresting me and everything.

Went to the District Attorney's office, he wouldn't talk to me. Went to the Judge's office, he wouldn't talk to me. Went to the Sheriff's office, he wouldn't talk to me.

I go back home. I get on the phone and I called a man that was here
earlier today, I wished he was still here, Mr. Ron Sparks, the Commissioner of Agriculture. And he knows me and I know him. And I told him what had happened. And he said, "Tony, I'll" -- this was Tuesday about dinner time, a little after dinner.

He said, "Tony, I'll be there the first thing tomorrow morning and we're going to check into this and we're going to do something about this".

MR. FERRELL: Sir, if you could just sum it up.

MR. GOOLSBY: Tomorrow morning never came. I called two or three days later they let me talk to his assistant. His assistant said, "Mr. Goolsby, I assure you we're looking into this, you will hear from us".

That was in 2002. And I've never heard from them.

The poultry company sued me, Cook Foods sued me and Santa Rosa Farms for 4.4
million dollars for forcing them into
taking such a drastic action.

    We went to court. And the jury
awarded me a verdict just like that
(snapping fingers). The Judge threwed the
verdict out and ruled in the chicken
company's favor.

    I -- I appealed it down to the
State Supreme Court. And the State Supreme
Court threwed it out, ruled in the chicken
company's favor, but there was one legal
point that I had that they couldn't back up
on if the jury gave me a verdict, a
favorable verdict. I had the right to come
back to county court in De Kalb County and
start all over again. And, so, we did
that.

    Cook finally settled with us. We
had done sold most of our farm. Done sold
our chicken houses to keep our home. We
had to sell just nearly everything we had
so we'd have a home to live in.

    So that's what Cook Poultry done
to me. That's a personal -- all these is personal stories that's been told today and everyone of them is true. Every word that's been said today is true.

This antitrust thing, the Attorney General, the USDA, you've got the power, but these lobbyists for these integrators and these other big, huge conglomerates that are buying the legislation and buying the actions --

MR. STALLINGS: We've got some other people who need to talk, your two minutes --


MR. GOOLSBY: I'm proud to be an American. You know, I love this country, but we need our government to step up for us and quit -- quit working for the lobbyists in Washington and down here in Montgomery and start working for the people. Our Constitution says, "We the people".
I thank you for the opportunity to speak. And I'm sorry for -- for my emotions, I apologize. Thank you.

MR. STALLINGS: Thank you.

MR. FERRELL: I think for the remaining four folks, if you want to go ahead and give your comments, and then we'll go to the next panel. And then we'll pick it up with more comments after that.

Thank you. Proceed.

MR. GARY KUSHNER: Thank you for this opportunity.

My name is Gary Kushner. And I serve as General Counsel to the National Chicken Counsel, which is the national trade association representing a lot of those bad guys we've just heard about. I guess this is one of those days where timing is everything.

In fact, I had hesitated to rise to the microphone during today's session. Believe it or not, I felt it important that the many fine people who left their farms,
traveled long distances to come and share their grievances deserved to have that opportunity.

And it's hard not to be moved by the passion with which they tell their personal stories. But I felt it important, particularly hearing Mr. Goolsby talk about personal stories, to offer the perspective of a lawyer, at least, who represents the integrated poultry industry.

And I only want to make one point, and it is just one point, and it's a legal point because that what these workshops largely are about.

And that is that I don't know the facts of any of the specific allegations that we've heard today. And it may well be that there are contracts that are unfair, that are -- that there are contracts of adhesion as a lawyer would call them. That there are contracts that have been breached, that may well be the case.

But I've yet to hear anything all
day, other than the word competition, that
links those contracts and those grievances
that these fine people have shared with us
to anti-competitive conduct.

And, certainly, you folks at
GIPSA and at the Department of Justice are
aware that the law is well settled. Eight
Federal Circuit Courts have made very clear
that in order to bring a case under the
Packers and Stockyards Act alleging unfair
or unjustly discriminatory or deceptive
practices, there must be a showing of
adverse effect on competition.

That's not to say there are no
remedies for ill will or for a particular
personal experience that may not have been
handled properly that may be unjust, that
may represent a breach of contract. We
have a long and large body of competent --
contract law well settled in common law and
in many states did provide ample remedy.

And where there is true and --
and demonstrated anti-competitive activity,
there is the Packers and Stockyards Act as well as the -- the number of laws that Assistant Attorney General Varney touched upon earlier today.

So I just wanted to make that clear that it's not to belittle any of the stories that we're told today, they are heartfelt and heartwarming, but to just make clear with purpose, as I understand it of these workshops has been, and that's to discuss competition and the laws under which competition is regulated in the United States.

Thank you very much.

MR. DONALD WALKER: I'm Donald Walker from Oxford, Alabama. I'd like to take this time and to talk about something that's very dear to me. Valerie helped me with this comment last night, but, Ms. Valerie, I'm not going to do this, I'm going to shoot from the heart.

What Mr. Goolsby just said, folks, is happening to a lot of people.
This room is full of people that's bleeding, not from the heart, but from the hip and it's time this was corrected. The integrator has run over growers for years and years.

I've been in the poultry business ever since I was eight years old. I've grown up in the poultry business. I've been in it since '90 on my own. But it's time that things changed, not just here in Alabama. We've got people all over the Southeast here that's hurting. And it's time that something happened, some way, somehow, things has got to change or the Third World is going to feed us.

This box lunch we got out there for seven dollars and a half, may cost us $20 ten years down the road if something is not changed, people.

Young people not wanting to get in the chicken growing end. And I've got two children and I wouldn't advise either one of them to do it. They've seen what
it's like, they don't -- they don't want it. Mother and daddy is having to deal with it, so they don't want any part of it. But, again, I just thank you for the opportunity to be here and I appreciate this time.

HILDE STEFFEY: My name is Hilde Steffey. And I'm here today representing Farm Aid, which is the national nonprofit organization working with family farmers to stay on their land and to thrive.

At Farm Aid we hear from family farmers every day. We've operated a 1-800 hotline since our beginning in 1985. And last year we had just under 1,000 contacts.

What we're hearing from poultry growers has us deeply worried. Nobody knows more about the problems of concentration in the poultry sector than family farmers.

But you may notice the smaller turnout at this workshop and smaller lines at other hearings you hold this year.
Family farmers are fearful of retaliation from integrators if they comment and for very good reasons.

We've heard troubling stories about what happens when a farmer speaks out against unfair, one-sided and deceptive contracts, many of the same stories you're hearing today. Farmers are provided with poor quality feed or sick chicks that die within days.

Poultry companies halt or delay the delivery of new birds. Farmers are required to make expensive upgrades. They're borrowing without fair compensation, or their contracts are suddenly drop altogether.

The lack of antitrust enforcement in recent decades has been responsible for the misguided trajectory and limited balance of our current food system.

The result has been a severely concentrated marketplace in which power and profit are limited to a few at the expense
of countless, hardworking family farmers who ask nothing more than a level playing field.

We regret that recent administrations have turned a blind eye to the very real threat of corporate concentration to family farm livelihoods to these our national food security.

We applaud this administration's historic commitment to address issues of competition and concentration in agriculture. And we urge you to make full use of experience and wisdom of the family farmers you're hearing from today. They are very courageous to be here speaking out against a contracting system that is not just unfair, but plain wrong. Please don't let them down.

Thank you.

MR. TERRY TUCKER: My name is Terry Tucker. I'm proud to say that I am fourth generation farmer in the community that I live in. And I hope it don't end
with me as far as my family is concerned. I've been in the poultry business for 18 years.

We did quite well in the poultry business, but, you know, I also know the different stories and I know the manipulations that go on as well in the poultry business. I saw my neighbors, you know, lose their farms. I saw both spouses having to go out and take other jobs just to make their payments. And, you know, as Americans we pride ourself with equality, you know. We'll send our -- our children, our daughters, our sons, our husbands, our wives off to war to fight for this equality.

And this ranking system that we have in the poultry industry is ridiculous, you know. You've heard a whole different things that's going on in this ranking system, you know, from bird delivery to feed and several others. And I want to address two of those.
And I want to address the bird delivery. One of the things is the fact that, you know, we don't have any control over that if -- I raise straight run birds. And that means that's mixture between male and female birds.

Well, if I get more male birds on my farm and Joe down the road, you know, gets more females, guess who's going to -- if he's -- if he's a halfway decent poultry farmer and sees after his chickens, I'm going to beat him out because I got the -- I got the more dominant bird, I got the male bird. Now, how fair is that?

Feed delivery, I want to address that just for a minute, you know. If I run out of feed during the course of a grow out and let's just say -- I'm going to throw a number out there. Let's say I'm out of feed for 48 hours. Well, let's say Joe down the road, he's not out of feed, we're selling together under this so-called fair ranking system, that's what the integrators
say, we know better. Guess who's going to beat me out? Joe is going to do it.

We really need your help from the Justice Department and the Department of Agriculture to look into this ranking system because it's killing us. Yeah, I've made money in the poultry business, I can't stand here and tell you that I haven't, but I've also lost money due to this ranking system.

So, please, we need your help.

Thank you.

MR. FERRELL: I think we're going to go ahead and just take one more comment. And then we'll go to the next panel and we'll get to that panel; then we'll pick up with more comments then.

So if there's still people that would like to provide comments, we'll allow more time to do that later on in the day.

MR. BRAD CAINEY: Thank you for taking my comments. My name is Brad Cainey. I'm from Nashville, Tennessee.
And thank you to Farm Aid who informed me about these hearings.

My reason for coming down from Nashville today is because I feel -- I have to step off topic, I'm not a chicken farmer, I'm a chicken eater. I believe the health care crisis will not be solved until we address ag policy and consumer preferences.

David Kessler, the former of head the FDA, says in his book, *The End of Over Eating*, it took 30 years to challenge and change the social stigma of cigarette smoking. He estimates that one-quarter of the population, 75 million Americans or more, are addicted to food. We need to change this epidemic of obesity. It is national security.

In this past decade life expectancy dropped. The processed food part of our western diet is shortening lives. According to Michael Pollen food use to be 18% of household expenses. It is
now at 8 or 9%, thank God, but at what price is this food so cheap?

Health care and health insurance, in the same period, went from 10 to 18%.
Again, national security.

The medical term for the lost of farmers is called a bleed out. One million farmers is not safe, two million farmers is safer. We need to grow more farmers.

If the trend continues to urbanization, let's bring production to urban areas.

Finally, on the subject of justice, criminal, not civil penalties should be applied to all polluters. And this should reach international law.

Thank you.

UNIDENTIFIED SPEAKER: I've been in the chicken business some 15 years. I've watched the chicken business and integrators evolve to a level that the average farmer can no longer sustain a living at, nor can we carry the rest as
we're asked to carry.

15 years ago growers only had a 7-year mortgage on new houses. Now, new houses take 15 to 20 years to pay off with very minimal base rate increase. I don't know if these farmers are able to pay off these houses.

I just want to tell my story. There was a hundred and fifty growers involved in a regional shut down. As we was growers, we was ranked in the top big bird division of Pilgrim Pride.

February 27th we got announcement that our plant was going to be closed. By May all birds was gone. 600 houses sitting empty. In those houses who's going to feed our children?

I would say shut down with no reflection to the growers and producers. We were told by Pilgrim staff we was the best at what we did. Our community was desiccated and most growers was heavily indebted, owe $200,000. And we had growers
with new houses and with only three grow outs.

900 jobs have been lost. Most of our houses have been -- I mean cost of upgrades. Our local businesses are suffering because of loss of income in local economy. A hundred and six million dollars jerked out of our economy.

All the equity each farm has worked so hard to build overnight with our house has turned into huge liabilities. Paying insurance, taxes, no birds.

Several -- several growers were not able to survive with such a hit. And the uncertainty of our future most of our local farmers have managed to keep credit with our local suppliers and banks.

Now, we are asked to restart this process and put our integrator's balance sheets back into the green. This process of restarting our houses has cost us unnecessary thousands of dollars; however, we do have another chance now. Our plant
will reopen. Almost a year and a half has past. We will miss two years of income where the interest has not -- has stopped -- has not stopped accruing.

I do give Don Jackson, the CEO of Pilgrim's Pride, an enormous amount of credit. He managed to do the unthinkable by saving Pilgrim's Pride through one of the gloomiest times of financial ruin.

I would also like to take time to give our local and state leaders credit. They worked with us around the clock and our CEO to put a feasible plans together which led to the reopening of our plant.

But the balance of my future is still, and my grower friends, is in the hands of Pilgrim's. I would like to ask a series of questions that will hopefully ensure such trying times never occur in my lifetime, my son's lifetime or future generations.

How can my fellow growers be protected from such an event ever happening
again? Should we be paid for down time or should we get start up money? We are a team, integrators and growers and poultry workers, too. Should we have longer contracts? Should we have guaranteed loans from integrators?

Now, you tell me the industry needs, it just not one company's problem, but it's the whole industry's problem that needs fixing.

We thank you for your time. And we thank you for the opportunity to grow birds again on our farms. We hope the changes will make a brighter future for all the growers and integrators. We are one team. What can you do for us growers? We are the South Georgia Division of Pilgrim's Pride, Douglas, Georgia, the best of the best.

MR. FERRELL: If our panelists can come up to the table and we will get started.

MR. FAMILANT: Hi everybody. My
name is Norman Familant. I'm the Chief of the Economic Section at the Antitrust Division of Justice that works on most agriculture matters.

And we're going to have a very fast-paced discussion here among the panelists. We're going to cover a lot of issues. They're going to be many of the same issues that we've been discussing — you've been discussing so far today. That's no surprise because those are the issues on everybody's mind, but I think it will be interesting to — to see — to get the perspective of this panel.

During the — during this panel we're going to — we have a plan, we hope it will work. If you have questions, write them down on the index cards that were available when you came in and pass them off to the sides where many of the volunteers in the jackets, and the burgundy outfits, will collect them and bring them up.
I'll try to work them in. I won't be able to work all of them. And I'm not sure how much time we'll have left at the end. But the -- but, as you've been told before, there is an open testimony hour directly after us. So, hopefully, you can pose your question then.

Let me -- we -- we -- we have a very capable and interesting panel with a -- from a very wide array of backgrounds. And, so, let me introduce them. I believe they're all in alphabetical order here.

Benny Bishop currently serves as chief operations officer for Peco Foods in Tuscaloosa, Alabama. He grew up on a poultry and row crop farm. And is a graduate of Jacksonville State University with a BS degree in business administration. Benny has worked full time in all areas of the poultry industry for 40 years.

He has served on the boards of the Alabama Poultry Association, the
Arkansas Poultry Federation and is the past president of the Mississippi Poultry Association.

Let's see. Sorry for -- because we're in the order here.

Max Carnes runs the Carnes Farms in Baldwin, Georgia. His growing business started in 1977 when he built three houses. He has grown that business to 16 houses now. That entire time he had contracted with Fieldale Farms. He's a graduate of the University of Georgia. He has two other business interests. He's in the paving business and on the Executive Committee of the Georgia Highway Contractors Association of which he is the past president. He -- he also has an interest in Zaxby's Food Operations in North Carolina, but Zaxby does not buy its broilers from Fieldale Farms.

Let's see. Next we have Professor Michael Dicks. Doctor Mike Dicks was raised in rural Orange County,
California. He began his agricultural
career working in the vegetable fields and
the ranches of the Irvine Company. He was
active in FFA and Ag Explorers. He
obtained degrees in biochemistry and animal
science from California Polytechnic State
University in 1975.

Doctor Dicks served in Kenya for
three and a half years with the U. S. Peace
Corps. He obtained his Master's and his
Doctorate in agricultural economics,
specializing in natural resource policy,
from the University of Missouri. He has
worked with USDA's Economic Research
Service in Washington, D. C. And is
currently at Oklahoma State University in
the area of agricultural policy.

Doctor Dicks has analyzed
contracts, production records and financial
information for hundreds of poultry growers
in eastern Oklahoma and western Arkansas.
And has measured the economic
impact of the poultry industry on a local,
regional and state economies. He has a large number of professional publications. He currently operates a hundred head Angus cow calf operation. And is a member of numerous community, church and social organizations.

Number -- let's see -- sorry.

Next is John Ingrum.

John Ingrum is from Forest, Mississippi. He's currently a poultry grower for Cook Foods of Mississippi. He also builds poultry facilities. He served 10 years in the U. S. Army on active duty and six years with the Scott County Sheriff's Department. He also worked as a business manager at Killian's Motors, Incorporated, Forest, Mississippi, for 12 years.

Let's see. Next to him -- I'm sorry for the shuffling around here -- is Cindy Johnson.

Cindy Johnson had an early exposure to the poultry industry and a
grasp of how the industry works through her father who has a PhD in poultry economics. She majored in agriculture at the University of Georgia and graduated from the University of Georgia Law School in 1982.

After working in Valdosta for two years, Cindy moved with her husband and son to Dalton, Georgia. She was offered a job as an appellate lawyer with the insurance defense firm of Kenny and Kim, where she remained for six years. In June of 1990, she joined the law firm of Waycaster, Morris, Johnson and Dean. Since 1990, Cindy has represented hundreds of growers in state and federal courts and in pre-suit negotiated settlements. In 2002, she left her former firm to join her husband in their practice in Cohutta, Georgia.

Next is Doctor Robert Taylor.

Professor Taylor is the Alpha Distinguished University Professor in Agricultural Economics and Public Policy of
the College of Agriculture at Auburn University. Prior to joining the Auburn faculty in 1988, he held faculty positions at the University of Illinois, Texas A&M University and Montana State University. He has conducted applied research on a wide variety of topics, including market concentration, conservation, buyer power and bio-energy. He's authored or co-authored five books and over 200 articles -- and 200 articles and reports. And has testified before Congress on concentration and consolidation in the food industry, particularly on issues in the livestock and poultry industry.

And, finally, is Mike Weaver.

Mike Weaver farms 350 acres in Pendleton County, West Virginia. He raises Angus beef cattle as well as broilers -- as well as broilers for Pilgrim's Pride that are processed at the Morefield, West Virginia processing plant.

He started in the poultry
business with turkeys and switched to broilers about six years ago. His broiler facility is comprised of two houses with 94,000 birds per flock.

Mike is president of the Contract Poultry Growers Association of the Virginias. He is a retired special agent for the U. S. Fish and Wildlife Service. He served as a board member of the Allegheny -- Allegheny Highland Alliance, the West Virginia Special Olympics Program, the Potomac Highlands Wounded Warrior Outreach and Roritan National.

So let's go right away to our -- to my first question area. And -- and I'm going to turn to some -- I'm going to turn to specific panelists for the first responses for all of these question areas.

Number one, in addressing our trends in poultry panel topic, we first need to gain some insight into key changes in poultry production and marketing over the past decade. What changes have
occurred in the typical initial investment in the scale of efficient operation and the time required for each flock to reach maturity?

What do we know about the quantity and quality of poultry produced over the last decade and the importance of exports?

And I'll, of course, turn to Professor Dicks.

MR. DICKS: Thanks, Norman.

It's great to be here and thank y'all for coming. It is a great country that we can all come and voice our opinions and be heard. And I hope that we -- we all are heard respectfully.

Even -- even university presidents -- university faculty aren't aren't immune to being victimized or hurt, intimidated. Even this morning I've had groups call my dean and call my president of the university asking for background information and paperwork, Freedom of
Information Act to try to get me to cease my participation in these hearings. So those that know me know that I am un-intimidated.

Let me -- let me start by giving a few recent changes that, I think, are important just to give -- to give a perspective on the industry.

First of all, we -- we -- most of know that the new top cool cell house has largely been adopted by the industry by this time. It's more efficient than the others ones, particularly in terms of energy efficiency, which has been a tremendous help to the growers, although that it is a much more expensive facility.

Sometimes -- the last estimates I have on that was from 2007, 2008. Those houses are about $225,000, which would include all the equipment necessary to run them. That's a fairly substantial investment for one of those houses. And I'm -- I'm saying the typical house is
40 feet by 400 feet.

Average farm size has increased. We now -- in my area we're looking at about three houses is the average farm size. I think a decade ago that was probably two houses.

The average market age of broilers is 47 days, the same as it was about 20 years ago. The average bird today is heavier than it was ten years ago. It's now about 5.63 pounds compared to about five -- five pounds in 2000.

Feed efficiency has increased, slightly, but that slight increase is a tremendous gain in terms of profitability. It's gone from 1.92 pounds to 1. -- sorry, from 1.95 to 1.92 pounds.

On -- on farm mortality rate dropped from 5% to 4.1%, which is -- which is fairly substantial.

And if -- you know, for a cow/calf operator to get below 5% would be -- would be a real -- a real thrill.
Post-mortem condemnation rates have dropped from 1.22% to .87% in 2009. And, again, that -- that has some real profit potential.

And then the last thing is on that trend is that per capita consumption of poultry continues to increase from about 80 at the start of decade to almost 90 today.

So those are the, I think, the things that would indicate improvement in the industry, more profitability, more efficiency.

On the other hand there's some things of a wider nature that I think are important for all us to think about. It's being interesting listening to all problems today. And believe me, those things didn't fall short on me. I am sensitive to agriculture producers. I -- I spend a great deal of my time -- I -- I -- I am an agriculture producer. I'm probably out in the countryside. I give 50 to 60 extension
presentations a year. And I -- and I do a lot of work with producers.

So hearing your stories, I assure you that I listen very intently to those stories. They're not much different than the stories I hear from cattle producers, swine producers, wheat producers, corn producers, et cetera.

While the trends that I've told you indicate that there is an increase in productivity and efficiency, these other major trends that I think are -- are exceedingly important. And one -- and the things that I think you really need to think about. And I'm sorry that Mr. Vilsack has left because some of these fall on his doorstep as we heard this morning.

One of the things that's created some of the problems in the industry is -- is -- started in 1994 with the reorganization of USDA. When USDA was reorganized, they took Farmer's Home Administration and stuck into Farms Service
Agency. Then ASCS.

That reduced the staff and also made changes in each one of those offices. And that trend has continued. The total number employes in the FSA -- in the local FSA office has -- has dwindled, as well as the number of FSA offices.

And that means there's less people to service those loans and to look and see if those loans are -- are worthy of being delivered.

Also, as you-all know, we're in a financial situation in this country and the world. And a lot of that has to do with cheap and easy credit policies, not only from the federal government and the Federal Reserve, but on down to the local banks. And I think that's had a tremendous impact on what you're seeing in the industry today.

One of -- one of the largest problems I see and I've commented on this before the Senate Ag Committee in 1997, was
the Federal Agricultural Improvement Reform Act in 1996. That -- that farm bill, as most people call it, the Farm Bill of 1996, eliminated -- essentially eliminated farm storage programs.

So from that time on the government virtually had no more commodity storage programs. And I insisted at that time -- because yields in the country are increasing at a decreasing rate and becoming increasingly more variable while demand continues to increase, at some point that means we're going to have price spikes.

And if you'll go back and read my testimony, I said that within a decade when I was asked how long it would be, I said within a decade we'd see some major price spikes in commodities. Now I missed it by a year. It was 2008 not 2007. So I missed it by a year, but it is there and it's going to happen again. And some of the problems that you're facing today and that
are coming down on the integrators are because we have gotten rid of commodity policy and we're not -- we're not managing supplies any longer. And, so, we're going to see much more variation in -- in feed -- feed prices. Much more volatility and probably a continuing trend upward in those prices.

So, I think, you know, again, those are -- that's a -- that's a major policy we're about to revisit. The current farm bill is probably one of the most complicated instruments that I've had a chance to deal with. And I've been doing it for a long time. I know Bob might want to contact -- comment on that himself.

I think also reaching peak oil in the last couple of years, meaning the total amount of oil that's all out, is never going to get greater. And -- and we have no energy policy. That's had a tremendous impact. I don't know how many people have said that today, that those rising propane
prices and rising electricity prices are squeezing profits. That's certainly the case.

If you enter into a contract in 2004 for a set price, your propane price between 2004 and 2009 went up from roughly the retail price for the nation a dollar a gallon to two and a half dollars a gallon. Now, that's a tremendous squeeze on profit. And most people did have a profitability to warrant that increase.

That's something, again, that -- that falls back in the lap of Congress and the federal government, is coming up with that energy policy.

Finally, just one last thing. I want to make sure that before I -- before I get done that today I want to -- I want to talk about this financial performance sector. That's one thing that hasn't changed.

You know there is, and I've heard a lot of that today. There is one thing
that is common is agriculture, and I know you've all heard this. There's an idiom that come from 50 years ago I heard when I was a kid, "Cash poor and asset rich".

And that literally means I've got great profitability, which the U. S. Agriculture sector does. Your --your industry, your -- you growers, most agriculture producers in this country have a very high profitability. I'll explain that if you'd like. But you have a very low dollar sales per amount of fixed assets you have. And that causes you to have a low return on investment.

And essentially what I'm telling you is, you're making good money, but you're using it all to pay for your assets. And I think you know that. That's true for every part of agriculture.

MR. FAMILANT: Some follow-up comments from Max Carnes.

MR. CARNES: I'll give a short one. Thank you. Going back -- we started
our family in 1977. And, at that time, we
built three houses for about $26,000 each. The last houses that we built were 500 by 50. And they're approximately a hundred and seventy-five or 225,000. I can't remember which now.

But going back over some of the changes that we have seen through the years. When we started out we had the old time eight foot drinkers that you would slosh out or rub out with your brush and whatnot. And, of course, now we've gone to the nipple drinker that's a lot more efficient and a lot easier to operate.

Our lighting program has changed dramatically. And to begin with, we had 24 hours of daylight. And now we manipulate it for the different size birds that we want. And we -- we've gone from an incandescent bulb to a fluorescent bulb and back to an incandescent. And that will probably change again, too.

Also, when we first started, we
had the regular pancake brooders in the middle of the house. And then that has changed to a forced air heater on the side of the house. And that has gone back now. We have a combination of the brooders and the forced air heaters.

Of course, a cool cell is one thing that I think has helped us more than anything else in the world. To be able to cool the birds, I know always before when the chickens got about 93 degrees you might as well -- or the inside temperature got to be 93 degrees, you might as well plan on start picking up some dead birds. That has been, I think, the biggest innovation that -- that we have had since I've been growing chickens.

Also, now, we have the computers that control everything in the house, which makes everyone's job a whole lot easier. It's just a -- a -- a big, big help to have that temperature change so minutely so that everything works out well.
The other thing that we have changed in our houses, when we first built our houses we had posts in the house. All of those have been changed now and we have all clear span houses.

So we have seen tremendous amount of innovations in the -- in the farming industry. And it has been a big help. It's -- it's made our job a lot easier, but you still have to pick up those dead chickens. I can't fix that for you.

Thank you.

MR. FAMILANT: Any -- any brief, follow-up comments by any of our panelists? On this question, yeah. Everybody okay?

Alright, let's go to question two. Let's get to the contracts. We'll deal with the compensation aspects, that is, the tournament ranking system and requirements for improvements in additional investments and the two questions that follow this one.
But, first, let's address the basics. Although there surely is variation in the contracts, what are the key non-compensation terms in the contract with which you are familiar?

What's typical -- what's the typical term of the contract?

When there is concentration -- when there is -- excuse me. When there is a contraction in the market, do the integrators cut back on the frequency of flocks in the contracts, or do they cut back on the number of chicks placed?

And I'm going to ask Mr. Bishop.

MR. BISHOP: Thank you for the opportunity to be here and speaking on behalf of my company Peco Foods, and also on behalf of the poultry industry.

The key non-compensation terms that we have in our current contract, of which I'm most familiar with, there's a -- or are a long list of these things.

But, first all, we've got to
consider the terms of broiler contracts. And it's important to keep them in perspective the nature of a processor's business. And my company is the same way.

First of all, all us, as poultry processors, are producing chicken products for, not only the U. S. food supply, but also a global market. It's critical these products be wholesome.

And, second of all, we have customers and markets out there that demand a specific sized bird and a uniformed bird. We can't just arbitrarily go out and grow any kind -- any size bird, any kind of bird we want to, we have to have something to market.

Processors like us rely on hundreds of growers to help us grow these various type birds and various sizes. The chicks that we own, of course, as processors, are entrusted to growers. They have to properly care for them, not only from a cost competitive standpoint, but
also from an animal welfare standpoint. We all depend on these animals for our very existence.

You talk about non-compensation terms of contracts, first of all, the processor provides chicks, feed and medication. The processor also provides management guidelines and technical service support.

The grower provides housing, equipment, labor and utilities to care for these chicks and grow them to the proper weight. The contract prohibits the grower from having other fowl on the farm and prohibits the growers -- grower from using any other type feed, rodenticides, pesticides, insecticides, herbicides, any kind of medication that's not provided by the company or the processor or approved by the processor.

The processor is looking for that grower's individual skills and experience on that farm. And the contract prohibits
any successor or reassignment of that
contract unless approved by the processor.

The processor is also given the
right to access on the grower's farm for
the purpose of inspecting the flock and the
grower's operations. The contract
generally provides that a grower is an
independent contractor and not an employee
of the grower or the company -- the
processor or the company.

Any veterinarian's reports
considering -- concerning flock health is
also available to the grower upon request.
The processor agrees to pay for damage on
the farm caused by his employees. Feed and
live birds are to be weighed by bonded
weigh masters. Feed trailers will be
sealed if requested by the grower.

Growers have the right to be a
member of and participate in any
organization or association they choose.

The contract generally has
default provisions with an opportunity to
cure, in except in circumstances where there is serious violations that might threaten the processor's property, the live birds or the processor's employees.

The second part of the question, what's a typical term of the contract. I can only speak for our company. And I'm sure it varies throughout the industry. But the terms of our contracts at Peco are from flock-to-flock to up to 15 years and anywhere in between. Our new house contracts are 15 years. Contracts on older farms, depend on the age and condition of houses, and, also, some circumstances surrounding those houses.

Some lending agencies that finance some of our farms dictate the lien or the terms of the contract and we abide by those. We currently grow in houses that age from brand new to 40 years old. The average age of our 1570 houses is 15 years old.

Our company has been in business
for 73 years. And in the last 10 years
we've had 749 contracts. We've terminated
3% of those contracts for just cause.

The last -- the third question,
when there's contrast in the market, do
processors cut back on the frequency of
flocks and contracts are then cut back on
numbers of chicks.

Again, I can only speak for our
company. During the recent severe market
contractions, and there have been a few in
the last several years, Peco Foods has
attempted to manage through these
contractions by simply cutting back the
frequency of flocks grown. That's the only
thing we have done.

In an effort to mitigate the
impact of these contractions on our
growers, we've offered an increased out
time pay to help the growers' cash flow.

As a result of this action, our
company, rather than the grower, has borne
the principle brunt of these market
contractions.

Thank you.

MR. FAMILANT: Mike Weaver.

MR. WEAVER: There's several different aspect of contracts that directly affect growers. And I'm going to try to address those here.

They're talking about these non-compensation aspects of the contract. Probably one of the most significant for us as growers is the term of the contract. I believe Mr. Bishop here says that theirs flock-to-flock. And, as a general rule, from what I've seen, and I've seen many contracts from many different companies around the country, flock-to-flock is about the standard.

You may see on your contract, I've had one myself in the past, where it said the term of the contract is five years or ten years or 15, but in reality, that -- that contract is flock-to-flock. And because it also goes on to give the company
the authority to terminate that contract with or without cause. And they vary a little bit on that, too.

Some of them say, however, some of them say with cause, some of them say with or without cause.

One of the biggest problems I think with the poultry contracts is that there is no input from the growers. We have no say so whatsoever in that contract. As -- as all you growers know here, and I -- Mr. Bishop's company might be different, I don't know, I hope it is, but they are more or less take it or leave it contracts. When they bring it to you, you sign it, you grow chickens, you don't, you don't grow chickens.

There's termination requirements or stipulations in those contracts. As I just mentioned, capital investment requirements, which never used to be listed, but now, thankfully, under the 2008 Farm Bill that has to be included in the
contract. All it does, though, is tell you that you may be required to make capital investments. It doesn't say how much it's going to cost you, how long it's going to take you to pay it back or how much money in addition they're going to give you to pay you for making those capital improvements.

One of the -- one of the real problems with the contracts is, and I expect most growers here have experienced this is, that it's only a contract until they bring you the next one, you know. It might say 15 years, but two months from now they might decide to change that contract. So they bring you a new one and you sign it or you don't grow chicks, you know. To me, that's not a contract. If get one for 10 years, it should been for 10 years.

We also have no control over the age they take the bird for processing. It's up to the company. It's their -- in my case -- in my case, I grow a four pound
bird. And recently they've been taking our birds as early as 34 days. We're lucky to get a three and a half pound chicken in that amount of time. And that loss of that weight, we don't get paid for it, is our loss. They don't get -- that doesn't made up to us in anyway whatsoever.

We have -- we have no say so in the number of breeder chickens. It says specifically in the contract that that -- the number of birds they place on your farm is up to them. And you have nothing to say about it. So if they bring you 10,000 chickens or they bring you 2,000 chickens, it's completely up to the company.

The transferability in that contract, we have no input into. If I decide to sell my farm and I have somebody wants to buy my farm, I can't transfer that contract to them without the approval of the company. In reality, that company has a new -- or negotiates a new contract with that person.
And that's -- the requirement for upgrades has become a real problem as far as any growers that want to try to sell their farm because somehow the company has figured out that if they want to force somebody to make upgrades on their farm that they're trying to sell, they'll -- they either make those upgrades themselves at their expense so that they can sell their farm or the person that buys the farms is forced to make those upgrades.

And I think that's absolutely wrong, too.

In my particular case, under the 2008 Farm Bill, we were given the right to opt out of binding arbitration, which is a wonderful thing, and I hope nobody in here agrees to binding arbitration, you shouldn't. If you do, you need to talk to your attorney about that.

But we -- my company restricted me, even though I can opt out of binding arbitration, from a jury trial. It says my only right is through a trial in front of a
judge. So I got out of binding arbitration, but now I can't even go before a judge. And I thought this was America. I thought we are able -- we were all entitled to a jury -- a trial by jury. Under my contract, I'm not.

MR. FAMILANT: Any other quick -- quick comments before we move on?

MR. TAYLOR: I'd like to emphasize one point Mike made.

In recent years contracts are going for longer and longer periods. There are 3-year contracts and seven and some ten.

15-year contract mentioned, I have yet to see a multi year contract that required the integrator to provide more than one flock of chicks. It could be for a thousand years, it doesn't matter. You're guaranteed one flock of chicks. And then after that the integrator can change the contract or whatever. That's when what economists called hold it up can occur. I
have not seen Peco's contract, but all of the others I've seen.

MR. FAMILANT: We should turn now to the key compensation aspect of the contracts: The tournament ranking system.

First, let's get a brief description of a typical payment scheme. When did this compensation aspect of the contracts emerge? When -- when did we get terms? And why do you think these emerged? And this last question is particularly of interest to me as an economist, why do we observe it so universally in broilers, but not so in raising other animals?

And I'm going to turn John Ingrum.

MR. INGRUM: First of all, I want to thank everybody for being here today. I've grown poultry for ten years. And the problem I see in the ranking system is it's not fair. And there's no way it could be fair, you know.
A lot of the growers will tell you that the companies tell you that the ranking system is a fair way of judging the grower on their performance, but there's no way it could be -- it could be fair because we don't have any control over the birds they bring us.

Sometime's I've -- I've dumped chickens that -- you know, there's a hundred chickens in a tray. And I've dumped the chickens where's there 35 to 40 of those chickens dead in that tray. So --

and I -- and, also, one of the growers said earlier I have been out of feed for two or three days with six-week old chickens. And it's based on the breeder chickens you get and whether they're male or female. And it also is based on how long you out of chickens. If you're out of chickens 14 days, and you're out of chickens 21 days, that has an effect on how your chickens are going to be perform based on your litter quality. So I don't -- I don't see how the
ranking system could ever be a fair system, you know.

The poultry industry has really been strange to me because I have a son that's a computer expert. And we use to try to figure out how to come up with our feed conversions on -- based on what our chickens should weigh. This kid is a master on a computer, never could figure out the chicken business, never could figure out the feed. And, so, I knew then that it was something wrong.

But, as far as a ranking system, there's -- there's no way it could be fair. And to base our performance if -- if the company -- I was out of feed one time as long as three days when my chickens started to eat on each other, but when I sold those chickens they still based my performance on what I done, but I had no control over the feed that they brought me. So there's no way that the ranking system could ever be fair. That's in my opinion.
MR. FAMILANT: Professor Taylor, any follow-up on this?

MR. TAYLOR: Well, your question about why is that in the poultry industry and not others, is simply because the integrators require it. They set it up that way.

There's the myth that this system takes grower -- eliminates grower's risk. It doesn't. It actually -- the common pay system -- if you have a high cost, you get a low unit price, or if you have a low cost, you get a high unit price. And it doubly penalizes or doubly rewards growers for good or bad flocks.

A very troubling aspect is a grower cannot verify any of the numbers used to calculate pay.

The second thing is feed quality varies, chick quality varies. Economists call this pay system a tournament, to me it's a lottery. And the problem is, it can be a rigged lottery, I'm not saying it is a
rigged lottery, but it can be and a grower has no way of figuring out if they were singled out for good chicks or if they had a sweetheart deal and were singled out for really good feed and really good chicks.

So it's a very troubling aspect that a grower cannot verify the numbers used to compute their pay.

MR. FAMILANT: I've seen some discussion that we're -- we're beginning to see tournaments in some other animals.

Have -- have -- have -- are you familiar with any evidence of that?

MR. TAYLOR: Not like the poultry system.

MR. WEAVER: I have a comment on this.

MR. FAMILANT: Sure.

MR. WEAVER: There's -- stop and think about this my fellow growers.

Under the ranking system if you're provided with poor -- poor quality chicks and poor quality feed, which is an
input from the company that we have no
control over, you're going to have poor
production.

This means you're going to have
less pounds than you should have if you got
inputs from that company. So you're going
to lose money on the weight that you don't
have. Plus, under the ranking system,
you're going to have points deducted from
your pay because you -- you produced
poorly.

So under the ranking system we
get hit twice, we get subtracted on twice.
And there's no way that that is fair.

Another way that it's not fair is
the fact that it robs Peter to pay Paul.
Why should it be fair for -- for the
companies to be allowed take money away
from you to give it to me because I did
better than you did. There's no way that
could be fair and it shouldn't be legal.

We've -- we've got to have a
better system of paying our growers here in
the United States.

MR. FAMILANT: Professor Taylor, what's the problem?

MR. TAYLOR: Let me mention one thing I've observed about the tournament pay system. There are a lot of subtleties dealing with whether an average is used or whether a median is used or whether a weighted average is used. And the integrators exclude some flocks, sometimes high, sometimes low. They completely determine what is excluded. They have min and max pay.

The point I'm getting up is, in contracts, most of them have a stated base contract pay. Let's say it's five cents. And there are bonuses for those that really have good flocks above that and penalties for those below. But a base pay of five cents, if you take a weighted average of all of those for flocks, it usually comes out to be less than what a contract says. And to me, that's deceptive and unfair.
MR. FAMILANT: Benny Bishop.

MR. BISHOP: I just wanted to make the comment, there's been some comments talked about poor chick quality, poor feed quality.

And, first of all, you know, from the company's standpoint, it's not in the best interest of any company in this business, and, again, I'm speaking for our company, but for the industry as a whole, to send out poor quality chicks and bad feed to any grower. I'll say that to anybody in this room or in this industry.

And if you look at what's happened in the industry over the last ten years, we've improved livability by over 1%. Back in 1999 and 2000 the average livability was only 95%. Today 2009, 2010, we've raised that livability to 96% plus.

USDA records show that whole birds condemns are over 1%. Ten years ago 1.2, 1.3. Today, the last 12 months, the average whole bird condemned is less than
one-third of one percent.

And the industry does not achieve this with poor quality chicks and poor birds coming off the farm.

MR. WEAVER: I'd like to make another comment about that if I could.

MR. FAMILANT: Go ahead, briefly.

MR. WEAVER: The reason industry is allowed -- is able to achieve that is because of good growers.

MR. BISHOP: I agree, good farm management, but there's some good inputs, they're not all poor.

MR. DICKS: If I could just make a couple of comments.

MR. FAMILANT: Go ahead.

MR. DICKS: You know, you asked about the -- you know, I grew up in the tomato industry. And I can tell you that they have the same kind of a tournament system basically in the tomato industry in terms of providing those tomatoes to the -- to the processor. And that's what we did.
And you're -- you're paid based on how much sun scald there is; how much rot there is; how much different than -- if it's less than -- if it's more than 12%, they turn the whole tub back around, 40 something tons of tomatoes, and back to the fields and you get to dump them. So it's the same kind of deal, but a little harsher.

In the beef industry I'm pretty glad that we've gone to the grid system. I get paid, not only the quality of my carcass, but the yield of my carcass in terms of also the rib eye, back fat, all kinds of characteristics on that. So, again, there is -- there is something to the merit system.

And I want to follow-up on what Benny says. You know, one of the things for me, as an economist, is try to figure out why things are the way they are. And just so you understand, you know, I don't want to put a lot into all the nuances of these -- of these -- of this tournament
system. And I know there's lot of ways it
could be improved probably and they're
probably some things wrong with it, but --
but let's look at why it's happening.

First of all, the -- the
integrators don't make a large profit.
That's a lot -- you know, a lot of -- but
here's what I want to tell you. And I know
you're all rolling your eyes about that.

If you take the cash sales and
divided by the cash expenses or, sorry, you
take the cash sales and minus the cash
expenses and divide by the cash sales,
that's profit, okay. That's not return on
assets. These -- these integrators are
making 1 to 2% profit. The thing that
they're -- the way they're making returns
their return on assets is by lots of
quantity.

What they have to do is run those
plants at a hundred percent capacity. They
cannot afford to produce chicks and not
have those chicks come back live, as big as
they can.

And, so, what they're doing is they're reimbursing those growers to try to induce the biggest birds they can get in the most efficient production. Now, that just makes sense. So that's what -- that's what that whole tournament process is.

Now, I want to -- the reason I'm saying this is because if you have a better way, right, of -- of -- of -- of coming up with a formula -- and you're in the business -- I always tell farmers that, you're in the business, you're on the ground, if you have a better way of coming up -- a way of paying yourself for being efficient, bring it forward, bring it forward, let's talk about it. Maybe -- maybe that's what the industry will go to.

MR. WEAVER: I have a suggestion for that. If you don't mind, I'd like take a couple a minutes here.

MR. FAMILANT: We have talked -- we've got to move along. So just try to do
it real quickly in 30 seconds.

MR. WEAVER: Well, okay, plain and simple. What we need is a base pay, a true base pay for growers that can't be subtracted. Once we get that, we'll be in a position to where we know what our pay is going to be at least. And the companies won't be at their will to take away from us when they want to.

If we -- we have a set amount that we know we're going to receive, we can budget ourselves and operate on that.

And it has to be an amount that allows us to pay our bills and make it a reasonable amount of return.

MR. FAMILANT: Okay. As -- as I suggested earlier, we also want to address another aspect of the contract, situations in which integrators require upgrades and additional investments by growers in order to hold their contracts.

How often does this occur? What do the processors cite as the reason for
these demands they make? What is the
evidence on whether these upgrades lead to
cost effective improvements in the quantity
and quality of poultry grown to maturity?
And what is the effect on the growers?

So we'll turn to Mr. Weaver first.

MR. WEAVER: Just to go down the
list there.

The first one is, how often does
this occur, that varies tremendously.
You-all know that as well as I do. But, as
a general rule, major upgrades are pretty
much on the five to 10-year cycle. It
depends on how old your houses are and the
whim of the integrators essentially is what
-- what it comes to.

Integrators -- I -- I -- it says
processors. And I'm assuming you mean all
integrators?

MR. FAMILANT: Yes.

MR. WEAVER: Cite reasons for
these demands as typically can improve
production, but one of the problems with it is they never delineate who the -- who the improved production is going to be, is it going to be for them or is it going to be for us as growers, but we're the ones who have to bear the cost for it. And that's -- that's the true problem that I see.

The integrators don't bear any of that cost typically. Now, sometimes they do cost share a little bit.

One good example I can give you is one of our growers was forced to do $600,000 in upgrades in his poultry operation and they cost shared with him. They gave him $78,000. So that was a really big cost share, wasn't it?

AUDIENCE: Good return on investment.

MR. WEAVER: Yeah, that's right. Another thing they don't do is give us a cost projection on how this is going to help us, you know.

I would -- I would -- if they
could -- if they could come to me and say
we want you to make this hundred thousand
dollar improvement. And here's a cost
projection as to how you're going to get
paid back for that, and here's how much
increase we're going to give you, and it
take you this amount time to make this
back. If they could show that to me in
black and white and make it reasonable, I'd
agree to do it. They wouldn't have to
force me.

And that -- it should tell
everybody who -- who even pays any
attention to that situation at all, and you
all have heard it all day in here, they
bring that contract to you with that
upgrade in it and tell you if don't sign
it, you're going to get -- you're not going
to get chickens, well, that's forcing
people to do it, isn't it?

But if they came to me and showed
me this cost projection and said we're
going to pay you this much more. And we
can prove to you that this improvement is
going to make you this much more money and
here's how long it will take you to get it
back, I'd gladly do it, but that never
happens.

What's the evidence on whether
these upgrades lead to cost effective
improvements and quantity and quality of
poultry growth? From what I've seen
there's very little evidence.

You all know, as well I do, that
at times it's just the whim of the
integrator. We all have our opinions as to
why they force us to do them upgrades and
go into additional debt.

A lot times there is just
speculation on the part of the companies.

Like I said, if they brought --
brought me a spread sheet and showed me
this is how much it's going to cost you and
this is how long it's going to take you to
get your -- recoup your investment, it
would be a whole lot easier for me to make
a decision on whether I do that or not, but the way it is, my decision is not too hard anyway because they can come to me and say, "If you don't do this, you're not going to get chickens". And that's -- like I said earlier, this is the United States of America, I don't think we should have to suffer through that.

Where they're asking us to take on additional debt for these improvements that -- that many times is not funded. And even when they do give us an increase for it, it doesn't cash flow, there's no way to pay for itself.

More times than not these improvements that they force us to do benefits the integrator 100%, or at least a whole lot more than it does the growers that are being forced to make these upgrades.

So I think we need to encourage packers and stockyards to create some regulations saying that if poultry
companies have upgrades, that they'd like
to make, if they think it's worth it to
them and their production is going to
increase that much, they should pay for it.

MR. FAMILANT: Cindy Johnson.

MS. JOHNSON: Thank you. I guess
you folks were starting to wonder whether I
was going to talk today or not.

I'm Cindy Johnson. And think I'm
the token lawyer, maybe the token woman on
this panel as well. I'm humbled, I'm
honored to be here today. I want to, first
of all, thank whoever turned the
air-conditioner off because I thought I was
going to have to chatter through this. And
I also want to thank especially my husband
and my law partner publicly, for having
traveled down this road representing
chicken farmers for a very long time with
me at great risk to our family. Thank you,
honey, I love you.

I was talking to our 24-year old
daughter back a few weeks ago because I was
trying to remember how long I've been doing this. And I said, "Elsa, how long have I been representing these chicken growers? It seems like forever".

She said, "Momma, I don't know".

She said, "All I know is when I was little girl I used to think that ConAgra must be a very bad man".

So it's been a long time, but I'll get to upgrades.

Back in the '90's I was assisting some other attorneys and some people that were active in the industry trying to organize poultry growers in the State of Georgia. And I went to a lot of meetings and did hearings around the state.

And one of the things that always came up was upgrades and how the companies, the integrators would keep growers in debt with upgrades. And that's the same song and dance I hear today when -- from these growers is we just can't get out of debt for the upgrades.
From a legal perspective, as a lawyer, it's always puzzled me that the chicken processing companies call poultry growers independent contractors and at the same time control the manner and the method of how they grow chickens. The legal definition of an independent contractor in the State of Georgia is by definition, "Being able to control the manner or method of how you produce a result".

If the integrators want to experiment with new technology, they should do that at their own expense, not at the expense of the grower.

If -- if a grower is growing as good a chicken as the man down the road with the fancy new equipment at the same cost to the company as the guy with the new fancy new equipment, why should he have to go and get into a lot more debt to put in the fancy, new equipment when it's not going to result in any additional money to him? I don't understand it.
And I think it's a symptom of the problem we have with the lack of power in growers who have invested more than half of the capital in chickens in this country collectively.

And there's a problem when you have a group of people who have invested more than half the capital in chickens and have no power and no say and get as little money as they do compared to the profits of the processors.

MR. FAMILANT: John Ingrum.

MR. INGRUM: It always puzzled me the word upgrade. Upgrade to what?

I have a -- my farm is down the street from another guy. And his farm is probably 35 years old and my farm is 15. And this guy repeatedly beat me every batch after batch after batch. Me and him was good friends. I go down there to try find out what he was doing differently from me, but his houses was older than mine.

And my serviceman came out one
day and he said, "We're going to close so
and so down the road down".

And I said, "Why"?

He said, "Well, his houses is too
old".

I said, "Too old"?

This guy is kicking my butt month
after -- batch after batch. I mean, that
shouldn't have nothing to do with how old
his houses is. And they ended up putting
him out of business, closing him down.

Then I had another friend. He
had $600,000 he owed on his farm. He had a
10 house farm. And he had to do upgrades.

When he got through upgrading on
that ten house farm he owed 1.2 million
dollars on a farm that was 15 years old.
He upgraded his self slap out of business.
He ended up -- he couldn't -- when he'd
make a chick it ended up costing him money
to grow chickens. He simply walked away.

You know who suffered, SBA,
because the SBA guaranteed his loan to get
that upgrade.

And then I had another friend -- there was four brothers in chicken business. And they upgraded and upgraded and upgraded to where these guys owe a million dollars on a farm that's 15 to 20 years old.

When -- I mean, when do the upgrades get to the point to where we don't upgrade to the standard? It's -- we only upgrade to the -- to the point of our service tech because every service tech that comes requires us to do different things.

I had to put lights down the center of my chicken house, half house. My service tech said, "I want these lights down to make it brighter, the chickens will do better".

I said, "Okay".

Did it. It wasn't very much expense, $1500.

The next service -- this guy was
only there three or four months.

The next service tech came out and says, "Why did you put them lights only half way down that chicken house"?

I said, "Well, because the guy told me before to do it".

He said, "Well, you know, I don't like that, I want them all the way down the chicken house".

And then I had another service tech after that, it's about six months after that, because, you know, they rotates them around to keep you from jumping on them.

And he came out and he -- I mean -- I -- I work on poultry houses. So I had my stuff in order.

So he comes out and he's looking up in the air because they don't really need -- they was trying to figure out a way to extend my out time because they really didn't need me to be in rotation at that time. So he was looking up in the air.
And I said, "Hey, the chickens are down here, tell me what the problem is".

He said, "Do you see that power line up there"?

I said, "Yes".

He said, "I want that down".

I said, "Well, I'm sorry, bud, but that belongs to Mississippi Power. I don't have no control over that".

And he says, "You're not getting chickens until you take that line down because our feed trucks might hit it".

Well, my feed bins are not even close to the power.

So I said, "I can't do that".

So I go to Mississippi Power. And they said, "Yeah, you can do it, we can take them down, but it's at your expense".

$6,000. When do the upgrades stop? Was than an upgrade or was that just a want? And that's what we have -- we have. And, I mean, I see this grower after
grower after grower.

I've got a friend Charles -- Charlie -- Charles Moore. He's suppose to have been here today. He cried on the phone last night because he couldn't be here.

He was a Wall Street investor. When he bought his chicken farm he had over $300,000 in the bank, cash. He was getting a retirement check and -- about $2500 a month with $300,000 in the bank. He was doing pretty good, wouldn't you think?

He messed around and got into the chicken business.

MR. FAMILANT: Mr. Ingrum, if you could wrap up pretty quickly.

MR. INGRUM: They -- they upgraded him out to where he's broke. Upgrades, so when do upgrades stop?

MR. FAMILANT: Okay. I want to turn to the topic that's come up today. Let's talk about the options that growers have to choose among alternative processors
with which -- with whom they might contract.

What is the distance span from a grower within which the grower can consider a processor? Do further distances impact the market weight? How typical is it for growers to have two or three options within that business plan? And has -- and has such choice become less common over the last decade?

Some obvious related questions if we can get to them. Does grower profit increase as the number of available processors increases? And how often do growers switch processors?

We've heard over here about difficulties they face, but I'm -- I'm interested if -- if -- in any data, that anybody, any of the panelists have about how often growers do switch.

And I'm going to turn Max Carnes.

MR. CARNES: I feel fortunate where we are, there are four or five
integrators that I could choose from. But I can tell you this, the best time to choose your integrator when you're building that brand new house. It's a lot harder to talk to somebody else once you've been growing birds for a single integrator.

Distance that grower can consider a processor. Of course, you could look around from your house and see if there are any other -- different type integrators or different types farms from you. But, as a general rule, I would think probably 75 miles is going to stretch it pretty close to the -- how far they want the feed trucks to come.

Do distances impact market weight? Absolutely. The longer that bird is sitting in that haul truck the -- he's losing weight the whole time. Of course, I know the people that I work with, and I assume everybody else, the first thing when that truck gets through the processing plant then he is weighed then. So your
weight loss turns to your integrator after it's weighed then.

And do -- does profit increase with the number of integrators? And I -- I really don't think it does. I think we've already talked about this earlier today that the contracts are going to be very similar. It's hard to sell a chicken a lot more expensive than -- than somebody else has. So I -- I don't think there's a whole lot of difference, it's just the type person that you want to fit in with, the type integrator that you fit with. You -- you can be comfortable with all of them, but you -- you need to talk with the people who grow for those -- for that company and find out whether it's a good fit or not.

And I -- there are very few people who switch integrators from one to the other. And I would think that the ones that do switch are -- will be switching all the time. You have some people who are never satisfied, I think, but -- I feel
very fortunate where I am.

MR. FAMILANT: Professor Taylor.

MR. TAYLOR: Okay. There are five sub questions here in a couple of minutes. So I'll try to hit them fast.

On the distance issue, it's roughly 40 miles out is as far. And they would prefer only 20 or 30 miles out. Tyson had a web page up for quite a while that said 40 miles.

The main reason, minimize feed hauling costs. So the location of the feed mill is the number one consideration. Processing plant is number two. So they want to minimize feed and bird hauling costs. And that concentrates the poultry operations.

Does grower profit increase? Well, the publicly available data indicates that there's no profits. Grower profit related to the number of integrators. There's no public data on grower pay, none. Integrators have it, but they share it with
each other by complex and by region.

That's not available. So there's no publicly available data with which to answer that question. My impression is, no, it doesn't matter.

On the whole switching issue, no, publicly available data on that either, but switching is very, very low. My crude subjective estimate is it would less than 1% per year.

The real problem with switching, you build a house that's got an economic life of, let's say, 30 years. You have two integrators, A and B. If you start with integrator A for a few years, you might have 25-year life remaining. You look at switching to B. Well, it's the same contract and basically the same pay. And if a grower for A switches to B; then they make integrator A mad and they're stuck with B forever.

So switching is very low, tremendous barriers to switching, including
the mandated upgrades. Switching rarely occurs without a grower, even with fairly new house and equipment, being required to make some kind of expensive upgrades.

MR. FAMILANT: Before we leave this area of contracts, I -- we have one question from the audience that seems to fit in here. The question is: Why don't we observe at least one or two processors owning -- owning growing facilities?

Why don't we see that experimentation? It just seems so systematic that -- that we have the grower contract system.

Do any of you have any response to that question?

MS. JOHNSON: I would like to respond to the question because I've had that come up in trying to organize farmers. And I'll tell you, it's about as easy to herd cats as it is to organize growers.

And the reason for is, that it's an atmosphere that is permeated by fear.
Growers don't like to be seen at grower association meetings. They don't like the companies to know they're talking to each other. They fear retaliation and, hence, they don't get together and try to coordinate efforts.

MR FAMILANT: No, no. But why -- why doesn't the processor just decide to own farms and --

MS. JOHNSON: Oh, I see the question, I misunderstood the question.

Because it's much cheaper to talk a farmer in to doing it. Of course, it's a cost decision, of course.

MR. WEAVER: It's because of the investment.

MR. FAMILANT: You think that the processor is not willing to make those -- that scale of investments in the growing facilities?

MS. JOHNSON: If there was money growing in chickens, the processors would be growing chickens.
MR. FAMILANT: I think we should now step back and pull together a lot of previous discussion into a really important question. What do we know about the current state of grower profitability? What are the key factors that would lead to a prediction of grower profitability, which grower is going to be profitable, which is not? How sensitive is grower profitability to a reduction in the number of flocks he or she raises each year? And what is happening to the ability of growers to meet the terms of their existing loans and secure the loans?

And I'll turn to Professor Dicks first.

MR. DICKS: Well, I think I -- you know, first of all, I want to -- sorry, is that working?

I want to define profitability again. You know, I think there's a disconnect between what some people think profitability is and what we, as economists
or finance people think it is. And I think when -- when people talk about profitability one thing that you're thinking at is my return on -- to my assets, my total return.

And when we say profitability, what I'm talking about is when I take those gross sales and divide by those -- or the cash sales and divided by that -- or subtract out those cash expenses and divide by cash sales again. That's my profitability, that's my profit margin.

And, again, I've already said that for the growers that profit margin is 15 to 30%. And -- and -- and, so, if you think about that, what am I telling you? You know, if you'll take -- if you'll take your revenue and consider that a 45 to 50% of that revenue is going to go to your operating expenses. Alright.

AUDIENCE: (Inaudible).

MR. DICKS: Then -- then that -- yeah -- you know -- again, I can only go
off what data I have.

And here is the -- here are --
the other problem is, and I want to get
this right out front is, we have very
little data. Okay. Most of the data we've
collected on -- on -- on farm -- on
poultry growers comes from Schedule F's,
Schedule F's or Schedule K's. And that --
that data is not poultry enterprise data,
that's farm data. A lot of times there's
categories on there that have nothing to do
with the poultry enterprise. So we have to
kind of nitpick about it.

I've -- I've probably done, I
don't know how many, hundreds of poultry
farms in Eastern Oklahoma and Western
Kansas -- Western Arkansas. And I'm going
to limit my comments to that, but I would
be willing to bet that given the state of
the industry, that that will not to
atypical for the rest of the United States.
And, again, I'm telling you what we've
looked at, that's what that profitability
measure is, is about 15 to 30%.

But the problem is, again, is that sales to fixed assets ratio. How many sales am I generating per dollar of my fixed assets and that's incredibly low. It's low by every standard that was set for financial -- for the financial standards. And that should be in the neighborhood of 80 cents to 90 cents and it's only 20 to 30 cents. So you have tremendous -- you're over capitalized. And that is true for all of agriculture, you know.

I'll -- I'll tell my students over and over again that buying land is a poor business decision if you're a crop farmer. Buying a poultry house is a poor business if you're a -- if you're a poultry grower, but it's a great -- it could be a great investment.

So remember that what you're doing is, again, you're -- you're using profitability to pay for those assets in the hopes at -- at some point those assets
are paid for and I'm going to get both the
gains from the profit margin and from that
sales of fixed asset ratio. So -- so
that's -- but that's -- that's the --
that's the reality of it.

So let me just wrap this up. You
know, what affects profitability? The two
-- probably the biggest -- the biggest
expense that you have is your -- is your
electrical expense, your -- your energy
expense, electric and propane.

MR. WEAVER: No, your mortgage.

MR. DICKS: Well, that's --
that's a fixed expense. So I'm talking
about just the variable expenses right now,
the cash expenses.

And -- and you have no control
over them, none of us do. And that --
that's stung you hard in the last -- in the
last three years. And, of course, the
budgets that I'm telling you -- the data
I'm talking about, I haven't updated it
since 2006, 2007. Of course you know that
those costs have gone skyrocket since that point in time. I, as a producer, can tell you also that the fertilizer prices have gone through the roof. And that's -- it's killing us.

Those are the things that I think I want to make -- make sure I get across now.

In terms of profit per flock. You know, the -- the profit that you make per flock is a function of the number of birds you get; correct. But the profit you -- but then the return on assets that you -- that you make is both a function of the number of birds that you get and the number of flocks that you get per year. So -- so the control of those two numbers is going to affect your return on assets, you know.

Why is it that you would -- would you -- that you would get less birds or less flocks? The poultry industry, because it's a vertically coordinated industry, is trying to manage your supply.
Why is it trying to manage that supply? Because market conditions exist that warrants doing something with supply to maintain a price, a price that's acceptable, a price that will give you some kind of return and give the -- give the integrator some kind of return.

And when the market dies, as it did, because exports dropped from almost 20% down to 16% of supply, it dropped fairly substantially, they have to do something to make up that difference.

If they continue to put out the number of birds, you're going to have a huge drop in price in order to get rid of them or you're going to dump them in a ditch, one or the other. So the only thing you can do is cut back on -- cut back on output. And if they do it uniformly, they have two choices, they can give you less birds per flock or they can give you less flocks per year, both of which affect your profit margin.
But they also, again, remember as I told you, the integrators have to try to get a hundred percent of capacity. They have to try to manage those plants at full steam in order to make a profit themselves. And when they cut back birds, they know they're going to lose money, they have to know that. You're losing money, they're losing money, the industry is losing money. You know, that's -- that's the way the market works. I don't -- I mean, I -- I don't know what else to say. But, you know, I understand I'm -- I'm in the business myself of raising cattle and the market is pretty tough on us.

You know, I had a hundred and sixty-six head in 2000. I'm down to 30 and wish I had them down to zero. For the same reason that -- that some -- some of you, I'm sure, wish you were not in the poultry industry because it's been pretty hard in the last five years.

Alright. Now, we're back being
in a turnaround and maybe I'd like to be back to a hundred head after the prices I've seen. But, unfortunately, it's going to take me five years to get there because I can't move them every 40 days.

So, anyway, I'll let -- did I do okay?

MR. FAMILANT: John Ingrum, quick comments.

MR. INGRUM: You know, I sit up here and I listen to all of these things that comes around, but the bottom line is that our -- is our market on the chickens is based on our weight and our feed and the number of flocks we get versus the number of chickens we have placed in the houses.

And the -- a lot of the integrators are cutting the number of chickens we get in the houses or increasing our out time to a longer period of time in which resulted in us missing chickens and that has something to do -- a greater affect on what we get paid, but most of our
payments are still based -- it's the same.

I bought my farm from a guy that was in -- in the farm 30 years, in the chicken business 30 years. And he told us -- told me that we get paid the same thing that they use to get paid when they were growing chickens, but the difference is the houses cost 200,000 now and 50,000 when he built his, but we get paid the same.

And when you talk to a lot of growers they'll say, "Well, we use to make good money". And they did.

But when you -- when you pay 50,000 for a house and -- and then you pay 220,000 for a house, it's -- and you get paid the same, I don't see how anybody can make money in chickens.

And when we go in to talk to that banker or we talk to that integrator, they don't tell us these things, they just shows us the numbers and our head swells and we want to get into the chicken business.

My son is 22 years old. He asked
me one day, he said, "Daddy, how could you
anybody talk you in to being in the chicken
business"?

    And I said, "Son, they told me
how much money was I going to make".

    He said, "Yeah, you might cash
flow that money, but the bottom line is
this".

    I gave up a job making $80,000 a
year to go into the chicken business to
make 30. There's something wrong with
that. And -- but it's based on the
numbers.

    MR. FAMILANT: Professor Taylor.

    MR. TAYLOR: Well, the only set
of information on actual profitability for
contract poultry producers done with
managerial accounting, rather than tax
accounting, is the Alabama Farm Business
Analysis Association, which I have nothing
to do with. But trained farm management
experts sit down with participating farmers
and ranchers and growers who have to pay
quite a bit to participate. And they go through everything, every little receipt and decide what percentage of the pair of gloves you buy goes to cows and to poultry and so forth. Those records go back to 1995.

10 of the 15 years, after taking out basically minimum wage, there is a negative return. They've lost money, on average, 10 out of 15 years. And the loses are much larger than the gains.

Another set of public information, is a highly detailed survey done by USDA. It's called an ARMS Survey. And you can go, even online, and get a summary for different production specialties.

For the poultry specialty averaged over 1996 through '08, 13 years, the average rate of return on equity, they take out a charge for unpaid family and operator labor, after taking that out, there is a negative return on equity.
Part of the deception that goes on, and I've seen this in a written representation made by an integrator to growers, they show 20% return, you're making 20% on your money.

They're not using the same accounting concept that they're required to use in their own financial statements. They're including what little you get for your labor there. If you take minimum wage out for labor, it's probably negative.

MR. FAMILANT: Let me -- let me continue with this thought because this is going to be a question for Professor Taylor, too. What information do growers have when they enter into the business and sign those very first contracts?

Are there significant opportunities for the integrators to exert what economists call post contract opportunism and impose unanticipated demands on the -- on the growers? And with what frequency do we -- do we observe this?
Do we -- is there any data on the -- on the frequency?

MR. TAYLOR: Frequency is basically is every one of them.

The -- there is very little public information on contract poultry production. There's all kinds on wholesale and retail chicken prices weekly, highly detailed.

You can go to your USDA web sites or listen to the news and you can get morning and afternoon cattle and hog prices. There is nothing on average contract pay, not even annual.

You can go to USDA and get cost of production budgets for corn and cotton and hogs and cattle, nothing on poultry.

So potential growers are really at the mercy of representations made to them by integrators.

MR. FAMILANT: Mr. Bishop, your comment?

MR. BISHOP: What information do
growers get when they first enter the business and signed the contracts?

Of course, we have a list of things that we furnish any potential grower. And that grower also has to make a decision to sit down with his banker and get a lot of the information there, too. So if they're misguided, I think it would be from the lending institution.

First of all, whenever we get a new grower, a potential new grower, we give them a packet that offers a copy of our contract. We don't hide anything. They're eligible to take a look at it, read it.

Copy of the building specifications. List of contractors and builders that service the area. List of equipment suppliers. We furnish a list of banks and lending agencies that finance poultry loans.

We show and discuss any company cost projection and calculations.

We tell them to sit down with the
bank and let them go through this totally again and decide if they want to get in the chicken business and if that bank wants to loan them the money.

We file a list of other items that are needed such as the amount of property, permits, utilities, dead bird disposal provisions, litter storage, dirt work, road construction. Even have to remind them about the equipment they'll need like tractors to operate their farm.

We want to them know everything there is before they get into the business. A copy of our live production program is given to them. We encourage every potential grower to go and visit with other growers, go and talk to them, see what they think about the business.

Take your contact and discuss with whomever you want to, your family, your friends, your attorney. We'll offer to take you to visit the poultry operation. We offer to take you on tours of our
plants, our hatcheries and our -- our feed mills.

It's all about post contractual opportunism and unanticipated demands. Again, I can only speak for our company. We look at the relationships of our growers as being long-term. If it's not mutually -- something is wrong if it's not mutually beneficial to both of us. It's not in the best interest of our company or any other company, I don't think, to impose economic hardships on a grower. And as long as we keep continuing to put growers out of business, the bank is not going to loan money to get new growers to replace them.

A productive grower network is important for us. It's essential for us to compete in the marketplace. We have to have good growers. Our management feels strongly about upgrades for the ones that are lowering costs or improved efficiencies on
our live operations. We'll offer incentives to offset those costs. It has to be mutually beneficial to both us and the grower or we're not interested in looking at it.

These changes in technology improvement -- improve management practices, not only in this industry, but as in any other business. And to what frequency, I think it's varying.

MR. FAMILANT: I think this leads to a natural follow-up question that at least three of you have submitted in some form.

In most areas there are -- there still are numbers of -- of people who wanted to grow broilers and wanted to -- they want to secure loans.

How are we suppose to integrate this fact that there are -- there are these people lined up to get in the business? If growers don't expect to see a return on their investment, why are they getting into
the industry? And, again, as many people
have asked from the audience, why do banks
lend to these people?

    Let's -- let's turn to Mr. Weaver.

MR. WEAVER: Is that my question?

MR. FAMILANT: Yes.

MR. WEAVER: I have some other

comments I'd like to make as far as the
growers income and such that we were
addressing earlier and I didn't get to

address.

    But current growers are
increasingly discouraging their families,
their sons and daughters, their nieces and
nephews to get into the poultry business
because they, plain and simple, will not
make money doing it.

    I'll use myself for example. And
I think the statement has been made here
that the biggest cost you have is your
fuel. And outside of your mortgage, that's
true.
But my mortgage on my poultry operation is $84,000 a year. Last year I grossed a hundred and nine thousand dollars. And I was the number one grower three times last year.

So what does that tell you folks?

Part of that was -- one -- one of the previous questions was that the companies cut back on the number of flocks or placing the number chickens you get.

Part of that drop in my income was that I lost the equivalent of a whole flock of chickens last year because of the cutbacks.

We're -- a lot of our growers in our area are so frustrated, they've lost so much money, that they intend to close down their operation in the very near future. Luckily for them, they're most of the people who have their operations paid for and they can do it without losing their home and their farm. But most of us are in debt to one degree or another. And if we
do that, we're probably going to lose our home and our farm.

    Somebody this morning made the comment that that farm had been in their family for eight generations. Those are the kinds of situations we're placed in.

    And the question being what -- you know, why would people want to get into these contracts like this?

    As a general rule, the majority of growers I've talked to that have done that, when the companies that -- no disrespect to Mr. Bishop, I don't know how he runs his business, I hope everything he said is true, and I wish it -- I wish it was that way industry wide.

    But, as a general rule, the figures that growers get when the companies trying to talk them into building houses are misrepresented.

    Now -- and I've seen them do it. They'll say, "Well, now, here's -- here's the average that growers make, but if you
do real good, you can make as much money as you can". And that's another 30, $40,000 a year.

Well, unfortunately I have never met a grower that is on top every time. If there's one out there, I wish you raise your hand, I'd like to shake your hand, and I'd like you to tell me how you do it because I've never met anybody else who could do it. I don't think this happens.

And I read statistics that Doctor Taylor here did that show that it doesn't happen.

MR. FAMILANT: If we could move along because we've got -- I really want to get in at least one more question and let -- and let Professor Dicks respond to this.

And we're coming up on our hard stop on our time.

MR. WEAVER: This last question here says, if they don't want these particular contract terms, why do they sign them?
MR. FAMILANT: Yeah.

MR. WEAVER: I think we've already answered that. They get an ultimatum, you sign here or you don't get chickens.

MR. FAMILANT: Professor Dicks for some -- some quick thoughts.

MR. DICKS: Well, just a couple of things.

You know, Mr. Weaver, if I'll ask you, you know, you said you had an eighty-five -- $84,000 dollar mortgage payment. How much of that was interest?

MR. WEAVER: I don't know. Let me think a second here. It's like $25,000 of that was interest.

MR. DICKS: So that's the only expense. The other part is principle. That doesn't -- you know -- that's -- that's the same as money in the bank.

MR. WEAVER: It's not principle, but --

MR. DICKS: You know -- you know,
but look here, folks, this is -- you know, one of the problems in America today, and you know this is true for all of America, is we have a real problem with financial literacy in this country. And that's why -- that's why we're having the problems we have with all the mortgages crisis and that's why we're having a problem having this conversation.

You know, if we're going to tap -- if we're going to talk about finance, we ought to talk about using the same terms. You have to look at the same things; right?

If you were making a principle payment that's no different -- you've made the decision to investing in a poultry house rather than invest in the stock market. That's an investment. That's not -- you can't make that -- you can't use that as a deduction. I understand that that means you have less money, but nonetheless, but that principle payment is not -- not considered in finance as an
expense. So you can't use that.

And that's one of the things I want to come back to --

AUDIENCE: Well, look at --

MR. DICKS: -- excuse me, let me finish.

MR. FAMILANT: Let him finish, please, please.

AUDIENCE: -- is down by 76%, it is an expense.

MR. FAMILANT: Let him make his point.

MR. DICKS: Well, let me just say this, I'll just make it real easy on you.

You know, I -- I -- yeah --

again, I -- I can tell you -- I can't -- in -- in my twenty -- 21 years plus at Oklahoma State University, I don't know how many farms, both my students and I, have analyzed doing business plans for.

But I will tell you this, across the country I've -- you know, I've farmed in four different states, I've been all
over the United States and all over the world, and I can tell you that of all the farms in the United States that I've looked at, I bet you less than 2% of them have the financial records necessary to run a business. And I'm not dissing anybody, that's a real problem, that's one that I'm -- I'm trying to fix.

You know, I'll just ask y'all out there, how many people have an income statement on hand, a balance sheet, a cash flow statement, enterprise budgets and the financial ratios necessary to look at your operations?

And I guarantee you this, if your bank doesn't have it, your bank shouldn't have lent you any money. And I've looked at a lot of the Farm Service Agency guaranteed loans and they don't have them. And, in fact, just to let you know our state office, our state office, our state FSA office this week has sent out a notice that provided guidelines to the
banks on what was necessary in order to
give loans for concentrated feeding
operations.

So it -- it -- it indicates there
is a problem out there. And one of the
problems that -- that this question is
getting at is why are people -- why are
people getting into the poultry industry
when you-all have these problems.

Well, number one, is they're not
being told -- they're talking to you and
they're getting -- they're getting a form
that's only giving them that gross profit I
was talking about. So it looks pretty
good.

And they go down to the bank.
And what does the bank give them a loan on,
their collateral, plus it's a guaranteed
loan.

All of those things set in motion
something that we're seeing here today is a
lot -- a lot of problems in the industry.

If you're not -- if you're taking
out a loan, right, and you can't cash flow with 60% of your variable expenses, you shouldn't have taken out that loan in the first place because if you took it out with the understanding that you were going to only have 45% of that be variable expenses, and the propane expense went up or the feed expense or something else happened, you're going to be underwater and you're not going to be able to pay your note.

And if I'm a banker, I don't want to do that. I don't want to give you that because I don't have want to own a poultry farm.

MR. WEAVER: Mr. Dicks, here's something right here I'd like to offer for an example. And anybody that wants to is welcome to come and look at this.

This is a grower settlement from 1985. In 1985 these growers could make as much as 4.85 cents a pound for their chickens. Today the company I grow for our base pay is 5.05, that's two-tenths of a
cent more than it was 25 years ago in 1985. That's the problem, that's part of the problem.

Another part is this right here. This -- this is a receipt for Kentucky Fried Chicken for a 12-piece bucket of chicken that was purchased last week. This -- this 12-piece bucket of chicken costs $26.99. And out of that -- out of that $26.99, the grower that raised the chicken got 30 cents.

MR. FAMILANT: Alright. Let's --

MR. WEAVER: The -- the state and -- and the city that sold this, where this was purchased, got $2.16 and they didn't do a thing for it.

MR. FAMILANT: Alright. Everybody -- everybody wants to keep talking, but indulge me here. We've got to stop very, very shortly and I want to get this last question in because it's very important. This will be our last question.

We've recently had court rulings
stating that producers must prove competitive harm before succeeding in a case alleging an unfair practice under the Packers and Stockyards Act.

What are examples of how alleged unfair practices might and might not be related to competitive harm? In view of these decisions, what will growers or USDA have to do differently in order to challenge a possibly unfair practice? And what could a grower, an ordinary grower be able to put together? What kind of economic evidence could that grower put together to support such a complaint of an unfair practice?

And I'm going to turn to Ms. Johnson for that.

MS. JOHNSON: Thank you. I appreciate it.

As I said, I've been representing growers for a long time, about 20 years. And back in the 90's when we were trying to get these growers in Georgia organized I
use to go to meetings and I would be the featured speaker most of the time. And they would get up and they would introduce me and they'd say, "Ms. Johnson here has won every case she's had for every poultry farmer she's ever represented". And that wasn't quite true. I'd lost one, it was on a technicality. But I would get up and I would wave the flag and talk about how there's this wonderful sword that growers have available to them. And it's called the Packers and Stockyards Act. And it prohibits any unfair or unjustly discriminatory or deceptive practice.

And when they terminate your contract because you're at this meeting we can go forward and we can file this claim under the Packers and Stockyards Act and we can get your chickens back. And that gave a lot of comfort to the farmers who stuck their necks out in Georgia back in the
'90's.

And it grieves me to have to tell you folks who are sitting here today that that sword that we had available to us to use for all those years has turned into more like a feather than a sword.

I don't see a single grower here from Georgia. And I know why that is because the growers in Georgia who took on this battle have been pretty much cut down and stomped on.

The fellow who was here earlier, the gentleman from the Council, Poultry Growers, what's that called again? National Broilers Growers, or whatever, Council -- Chicken Growers. I can't get the name right.

He made a good point. The Council has spent a lot of money on lawyers to convince our courts that growers ought not have any federal rights. And that is -- that's a snowball. It's keeps on rolling down the hill and gathering up more
and more snow and keeps rolling over farmers.

The most recent decision is the Terry Case out of the 6th Circuit. And that case isn't over yet. And I'm not real comfortable talking about a case that's not over, and, especially, when the lawyers for Tyson are sitting over there on the second row.

But suffice it to say, there's something wrong in America when a grower like Mr. Terry over here in the red shirt complains to the -- to GIPSA, to the USDA, the federal agency that's charged with the responsibility of making sure that growers receive adequate pay for their efforts complains because Tyson is stealing from him, gets cut off for his efforts and has no remedy. There's something wrong with the laws in America if he has no redress.

MR. FAMILANT: Thank you. Any quick comments from any other panelists on this, on this particular topic?
MR. CARNES: We do have one grower from Georgia. Thank you.

MS. JOHNSON: Or the panel. And if I can make an observation. And I have a lot of respect for Mr. Carnes. We talked before the panel today. And he seems to be a very capable grower, a very astute businessman, but I believe he's a -- also in another business. And that's the paving business.

And it's possible to grow chickens when you have another business and do it profitably. And it's -- it's called writing off some of your losses.

And I don't know whether you've ever lost any money in the chicken business, but I want to address -- the question that you had a little while ago that I misunderstood, I've had a little time to think about that question. And it really goes to the upgrade question as well.

And that is, why don't -- why
don't companies go out and build their own chicken houses and hire their own employees and put their own employees in these chicken houses and grow chickens and I'll tell you exactly why they don't. It's because of supply and demand.

It's because if they were investing more than half of what they've already got in processing plants, they got to turn around and put the same amount or more money into the houses to grow the chickens. First of all, they have that huge capital outlay in the -- in the assets.

And then they've got to hire all the employees to grow the chickens. And those employees are entitled to benefits under federal law as employees, including unemployment if they're laid off. Including workers' compensation if they get hurt in the chicken house. All those benefits that you get if you're employed, you don't get if you're an independent
contractor; right?

AUDIENCE: Right.

MS. JOHNSON: What was -- when was the last time you got a check from the government when the -- for unemployment when the chicken processor left you out of chickens. It doesn't happen. Okay. So it's a way for the processing companies to control costs and to adjust for the ebbs and flows of the market.

And I'm not an economist, I'm a lawyer, but that's what I have observed over the last 20 years.

MR. FAMILANT: Thank you.

I want to thank the panelists for a truly spirited exchange here.

And I want thank the audience. You guys were as attentive as any panel audience I have ever seen in my life. You guys paid great attention.

Thank you very much.

Ten minutes -- ten minute break now before the next open discussion.
(Whereupon, the taking of the proceedings was recessed from approximately 3:53 p.m. to approximately 4:16 p.m., after which the following proceedings were had and done:)

MR. FERRELL: We're going to go ahead and get started again. And for the next hour we'll have another round comment period.

And we'll use the same form as we did before, if people who got a ticket who wanted to have -- provide some comments, could just line up in front of each microphone.

And I -- I would -- I ask for your all's cooperation in trying to keep it as two minutes as close to possible because for each persons that provides a longer term amount of comments means fewer people get to actually provide comments. So if you could keep it closer to two minutes the better.
And, so -- oh, and I just might mention, just to help you keep staying closer to two minutes, we do have a timer that has a light. And it goes from green, yellow to red.

And, so, anyway, we'll go ahead and get started right here.

MS. LYNN HAYES: Hi, I am -- I want to thank you all for this opportunity to be here. And appreciate the fact that both the DOJ and USDA are playing very close attention to this issue.

My name is Lynn Hayes. I'm an attorney with the Farmers Legal Action Group. We're a nonprofit law firm that represents farm -- family farmers and ranchers. We've been working with contract poultry growers for probably 15 to 20 years now. And since I'm a lawyer I have a very hard time with two minutes, although, I'm use to seeing those lights.

But let me just try to make some suggestions on how DOJ and USDA should work
together on -- particularly to enforce the Packers and Stockyards Act.

And I think the first thing that we need to -- that the Department of Agriculture needs to be very firm on is the understanding that the Packers and Stockyards Act is different than every other antitrust and unfair practices act in this country.

The emphasis of that act was not just to protect consumers, but separately to protect producers. And, therefore, we need DOJ and USDA to develop a very clear policy analysis of how they are going to protect producers under that act.

We need to have them develop, in detail, how they're going to take all these scenarios that have been presented in the poultry industry today, from the ranking system to the insecurity on the duration of the contracts, to the upgrade issues. And take those scenarios and develop the legal analysis that will be used under the
Packers and Stockyards Act to address those issues, which aspects of them can you address and how.

And I think that it's absolutely imperative that the agencies have a clear analysis of that.

And my suggestion would be with this joint task force is that you put your best and brightest lawyers and your best and brightest economists together and you sit down and you have the lawyers do the legal analysis for each individual scenario or practice that has been raised.

And to the extent that you don't automatically have the information, in part, because there's so limited information in the industry, you ask the economists what do we need and how would we ask the question and how do we get it.

Then you use the very broad and effective investigation and information gathering authorities that USDA has and force the integrators to give you the
information. That has never been done, to my knowledge, was the attempted effort to have regular reports from the integrators. And my understanding, I believe under the Packers and Stockyards Act, you have the authority to ask the integrators for any information on their relationship with the growers that you want and need to assess their practices and whether they're legal under the act.

With that regard, I don't want -- I -- I also think that it's absolutely imperative that in these regulations that USDA will be issuing in the near future that they take -- that the Agency maintain it's position. That under A and B of Section 192 that you don't to prove anticompetitive effect. That has been the position of the Agency, I believe, from day one in the passage of the Act. You should maintain that position.

In addition to that, you should go the next mile and define how it is at
that -- how the various practices that you will be addressing in the rules do, in fact, affect competition or injure, cause adverse competition.

And when you do that it needs to be looking, not at the consumer, which traditional antitrust law does, but, in fact, at the producer and the monopsony power of the integrators and how that affects the producer.

And I think that's the unique aspect of the Packers and Stockyards Act. And that we need to develop a very strong, clearly defined policy and guidelines on exactly how you're going to enforce in each of the livestock and poultry industries under the specific -- to apply it to the specific scenarios that you're hearing about.

And that, then, in addition to that on a long-term basis -- that can be done right now. But on a long term basis I think you should be issuing regular orders
requiring packers -- or integrators in this case to report to you the information that the Agency needs to investigate and maintain a handle on exactly what is happening in the markets.

And I think that you have the authority to do that. Have a system that you will then use that information, analyze it on a regular basis and bring any enforcement actions between USDA, referring them to DOJ, that that information on an ongoing basis presents.

My time is up. Thank you very much.

MR. FRED PARRISH: My name is Fred Parrish. And I had a statement prepared, but pretty much most of it has been covered real well. But -- so I just wanted to share some experiences under this tournament pay or performance pay.

I've had add some flocks of chickens that were delivered that were sick. One had aspergillosis and the
company knew it, it come from the hatchery, and I had a high mortality and the birds didn't perform. And I had one that had rickets and a high mortality and the birds really didn't perform. And I wound up with a, I think one of them was a hundred and sixty-seven and one of them was a hundred and eighty-four points below average. And the company knew that it wasn't anything I did, but I'm the one that suffered the loss.

They took my performance and subtracted it from base pay and that's what I got. But it wasn't anything I done, it was something that happened to the birds before I got them.

I've had them bring feed out that would be molded and you couldn't get it out of the bins. To them it doesn't matter, you know. You'll hear them say, "Well, yeah, it does matter, why would they do that"? They do it, I don't know why, but they do.
And I wound up on the -- the probationary thing. They cut placement, which cuts my pay because I had fallen down to the six block average of 60 points below average.

And -- but, now, you know, when they wanted something out of me the next batch, they wanted me to take birds back early because somebody wasn't going to be ready. And I told them, you know, is you-all done this to me, you knew it was your fault that I'm here, you know. I'm not doing you no favors if you're not going to help me. I told them, "You know, if you give me back my birds, you know, take me off probation then I will take them back".

Well, I reckon they needed bad enough at that time and they did give them back to me on my next flock and took me off of probation.

As it was them, and I lost a lot of money off of that because I've got six houses that holds -- well, now, I was
getting 12 -- was getting 20,000 for the house, but they've cut it back to 19, but, at that time, we were only getting sixteen seven. And when we originally started with them we were getting 20,000 to the house. And the only thing that changed was the number of birds we got. The weights went down when they was suppose to go up.

And whatever they say they make things so that you can't hardly get out of debt. It keeps you in debt one way or the other, you know. They may give you a raise, but they cut weights and you still ain't making no more money.

I made as much as $50,000 the first year I put in a batch. Now, after I've spent close to $200,000, I think my best check has been 52 or $53,000. That's with an incentive pay. And that's been 12 years that I've been with them, you know.

It's just not right the way they did it. I mean, it's manipulative.
Thank you.

MS. PATTY LAVERIA: Hi. My name is Patty Laveria, but I'm actually going to read a statement for someone who -- a grower who is very interested in coming today, but couldn't make it to this meeting.

His name is Reed Phifer. And he's grown turkeys and broiler chickens for 23 years under three different integrators with -- with many contract changes.

And, so, what he wrote was that I believe when a poultry company entices a grower to borrow and a lending institution to loan a very large amount of money to build what I consider to be no more than a company farm, the company should be forced to see that the debt is paid in full.

I think this should be done even if it means making the poultry company a co-borrower and as much as responsible as the primary borrower. This means that if money is borrowed to be paid back in a
10-year time frame, the contract should stay in place for that period of time.

What the company can accomplish through this channel is to have in possession a facility that produces their poultry with cheap labor and no capital outlay. This is labor the company knows they cannot afford -- this is labor the company knows cannot afford to question anything asked of them.

I feel making the integrators stand behind their contract until the debt is paid in full should be mandatory. This is the -- this is for when the contract was presented to the lending institution. This was the major factor used in calculating how this very large amount of money will be repaid.

The integrator is selling the lender a bill of goods that the loan will be repaid on the premise that the payback numbers are generated by the integrator's contract are exact and guaranteed.
I understand from talking with a previous grower that Tyson is going to a guaranteed payback contract. This is not to say they want a burden of this magnitude, but it is saying the lending institutions are not loaning money unless their payback is guaranteed.

A second point that he makes is just that a poultry company should never have authority to require mandatory upgrades without measures in place to fund the additional work at no cost to the grower.

The company should feel confident in their ability to define the exact procedures needed to produce their poultry. This should be clearly defined in their initial contract wording so as to make sure there is no need to add amendments which could cause the grower undue stress.

When and if the company learns of new technology that will help profit the production of their poultry, they should be
responsible for the additional capital outlay.

And one last point that he makes is that the grower should have some piece of mind concerning contract security. They honestly have no idea what may happen from one day until the next.

This is one reason I would suggest that companies needing additional space for growing their poultry be required by regulation to stand behind any loan acquiring monies for this purpose until paid in full.

UNIDENTIFIED SPEAKER: I'm reading a comment on behalf of a grower who would not come here today, was not able to come here today because of fear of retaliation. I'm reading his conclusion first.

These comments are real and serious. I cannot reveal my identity for fear of severe consequences, like no more chickens. There is, incidentally, a
blacklist among integrators so any grower cut off will not be picked up by another integrator.

The subject for this memo is, "Input as a contract poultry grower the Secretary of Agriculture and the Attorney General for USDA Poultry Workshop". This is an uncommon opportunity and I thank you for it.

Unpaid mandatory upgrades. Requirements prefaced by you will not chickens get back until 36 months ago new cool cell pads 20,000 -- $2,000. 24 months ago demand arms, $2500. 20 months ago new feed bins $8,000.

Requirements prefaced by, perhaps you should just stop growing chickens because you're old and it would cost too much to bring your houses up to standard. 12 months ago new ceilings, new ceiling, new heaters, new baffles, new cool cells door, a hundred twenty thousand dollars, and four months lost production.
Requirements prefaced by, you want to sell farm, new controllers will be required: Two months ago new controllers, $14,000.

Summary, a hundred and fifty thousand dollars over three years for the privilege of remaining to be a contract grower.

Recommendation: Integrators are paid in full for required upgrades.

Two, lack of contract security. I get a one year contract, which says that if I fail to respond to any requirement, they can refuse to put chickens back in my houses.

Summary: Integrator has demonstrated numerous times by you will not get chickens back until that there is not even 1-year security.

Recommendation: Integrator should be required to give real contract which extends through the amortization of houses and improvements.
Unfair payment system: The tournament method of payment has been used for years. This means that the integrator computes the flock average cost, covers how that's done.

Summary: There's a common thing that the integrator than can send the check with the chickens, meaning that all the factors are controlled by an integrator.

Recommendation: USDA should declare this practice as unfair.

Insufficient base rate increases: Got a token raise of about 5% two years, which brings compensation for over a million dollar facility to just under minimum wage.

Summary: Why do I do this? My children will have no part of it.

Recommendation: For the industry to survive, there has to be better compensation to contract growers.

Financial institutions are rapidly slowing the number of poultry farm
loans and requiring more security. This will bring the industry and this country to its knees.

Finally, lack of Packers and Stockyards action. I had a visit from Packers and Stockyards about ten years ago. They listened to my story and thanked me for my time and left. Do they still exist?

Summary. As it currently operated, it has not effect on the poultry industry.

Recommendation. Congress should amend the Packers and Stockyards Act to give USDA full enforcement over unfair and deceptive practices in the poultry sector. Congress should prohibit poultry companies from cancelling contracts without adequate cause.

Packers and Stockyards should be required to enforce growers rights rather than uphold poultry companies.

Thank you for your time.

UNIDENTIFIED SPEAKER: Thank you
for the opportunity. The purpose, my friend could not make it, he just got cut off of chickens last week. They pulled his contract. And he asked me to come and give this testimony of what me -- what he has proposed that might would help all of us in the chicken business.

The purpose of this is to protect and give security to the livelihood and the source of retirement for each farmer who has worked for years, years of no comfortable future for their family.

He said one permit should be issued to each existing poultry house under contract at present by the federal or state government before any more houses to be built.

A new person interested should have to purchase a permit house per house solely from the owner who has permit in hand, one permit to a house.

Example, if there was 975 houses in a state, the integrators could not build
no more houses unless a new fellow, a new person interested should have to find a farmer that wants to get out of the business on his own terms, buy his permitted houses from him so that no integrator could cut him off for little or no reason.

This is to ensure that the permitted farmer has a little security for his or her future. No more houses could be built in the state without a permit.

One permit equals one house. If a farmer has four houses he has four permits. One permit is valued at $30,000.

People in cities and counties are complaining about the smell, flies and environmental impact to these communities.

The chicken companies want to build new houses every year so houses that have a little age can be cut off or made to update to comply with their rules, regulations so they have you so deep in debt that you cannot make a rational
decision.

At present farmers have put up all their land, houses, everything they own, their parents and grandparents to get into this operation with no say so at all to where someone else pushes the pencil to how much you make.

This is the first million and a half dollar investment for a minimum wage job that I've ever had with no security at all.

I thank y'all.

MR. BILL RONICK: Good afternoon. My name is Bill Ronick. I'm with the National Chicken Council. And I appreciate the opportunity like many of the other speakers and panelists today, we appreciate this opportunity.

I'd like to mention a couple things for the record, they've been said before, but I'd just like to reemphasize those and I have a couple of other thoughts.
Companies have tremendous economic and competitive incentives to produce good chicks and good feed. If they don't, they're at a competitive and economic disadvantage to other companies. And, so, they want to produce the best chicks and the best feed that they can, but it's a biological process in the case of the chicks, and that makes it much more difficult.

For 35 years, until last year, broiler production increased. We talk about volatility in agriculture, there certainly is that, there's certainly is that in broilers. But if there's stability in agriculture, I would suggest that the broiler industry offers more stability than some other parts of agriculture based on that 35-year record. If you go back 35 years, I would suggest the reason production was adjusted downward then was because of government policy. And I'm not suggesting the reason we adjusted
production down last year was government policy, but I think it was part of it.

This year broiler production, luckily, is increasing again, USDA says 2%. I think maybe we can do a little bit more than that, but every other meat, beef, pork, turkey, their production is down this year. Broilers is the only one that's going up. Next year we're going up again more than 2%, 3%, maybe more. So we're continuing to get back on this track of continually growing year after year.

One of the questions is why don't companies grow -- own grow out facilities.

Well, a large company in California, one of the largest companies does, in fact, grow its -- own essentially all their grow out production. In California they're one of the most profitable companies, I haven't seen their books, but I understand they're one of the most profitable companies.

There's a small company in Ohio
-- I've already spoke for two minutes.

A small company in Ohio does that, owns their own production, so whether large or small. And then there's other companies in between that grows -- that owns some of their own production.

And just quickly, Brazil, Mexico, China, a lot of other countries would not only just like to take our export markets overseas, they would like to export their product here.

And I'm going to say -- and we're not going to get into the word if, I'm going to say when these companies meet USDA's inspection requirements, their product will be coming here. And we will be competing against not just their product, but their growers, their feed, their chicks. So it's a global world competitively and it's getting more so.

International trade, our exports take about 20% last year. Russia and China, as we speak, are disrupted, they're
our two biggest markets. They account for 40% of our exports. We hope those markets return, but, as I speak, they are disrupted. And, luckily so far, I don't think that problem has gone back to the growers, I think there's some insulation there.

The one question I was asked that I didn't hear a good answer is, when I talk to companies, most companies, many companies, if not most companies, have a list of people who want to grow chickens or want to add to production.

Now, I understand in the short run, perhaps, you can misrepresent the information, but we've been doing this for four, five decades. And as Abraham Lincoln said, "You can trick some of the people or fool some of the people some of the time, but it's very difficult to fool all the people all the time". So I'd like to hear an answer about, if this such a bad deal, why have we've been able for four or five
decades to continue to have people who
would like to get into the business.

And I appreciate this
opportunity. Thank you.

MR. KIRBY NASERY: I'm Kirby
Nasery. I've been in the business for 21
years as a poultry grower.

To answer your question that you
just asked. When I got in it in 1989, I
was working offshore on an oil rig. My
father had retired. My wife had a really
good job and we were doing really good. We
put every dime back we made back into
chicken -- six chicken houses for seven
years. We paid for them in seven years.
That's -- that's unheard of, but we put
every dime we made back into them.

I wasn't even going to bring that
up, but the reason I got up was for the
ranking system. Right now I'm number nine
out of 333 growers on a six block average.
I've got two three house farms. I'm also
number 126 of 333 farms.
Now, how is the ranking system fair? Everything I have got is the same. I've got the same equipment. Get the chickens the same day, sell them the same day. How is this possible if the ranking system is fair?

Do I spend more time in three houses than I do the other three houses? Do I better -- do I do a better job?

My -- my opinion of it is we get a lot of split loads of feeds. And I have never called the Packers and Stockyards about this, but we will get three farms -- three different farms on one truck of feed.

You've got a driver that comes out there, stays on the cell phone the whole time he's unloading feed, you know. 6,000 pounds on three houses, which is one bin of feed, makes two points feed conversion. Two points feed conversion can cost me $3,000.

I just -- you know, I don't -- I don't know the answer for the ranking
system, but what we've got is not fair. I
have been on top and I have been on bottom.
And, like I say, I don't have an
answer for it, but, anyway, thank you.

MR. DONALD RAY WILKES: I'm
Donald Ray Wilkes from Geneva County,
Alabama.

There's been a lot of things
discussed here; a lot of things that I've
dealt with. One thing that I'd like to
mention, a lot of it's been talked about,
is upgrades.

And the biggest thing in our
input into chickens are feed. The
technology that's available today, why
aren't there some sort of technology on
that truck to let them know that this house
and this bin putting this much feed in it.
If they can do it at a feed lot where
there's cattle running across the trough
there and he moves a foot and knows he's at
the wrong spot, why can't this be done with
chicken feed because I had it happen to me?
A load of feed came in on a Saturday. When it -- so I had the best feed conversion of anybody, wasn't nobody around me.

So they came down and I told them to go back and look for the feed tickets.

He said, "We haven't got it".

I told him to come back on that Friday if they didn't get it because all they was going to do was hurt another grower.

So I produced the ticket for him.

He said, "We haven't got it".

A week later in the mail they made up a ticket and sent it to me. So the technology that's available today, why aren't they upgrading the feed trucks.

Thank you.

MR. ALTON TERRY: I guess a lot of you might know who I am. I'm Alton Terry. All I wanted to do was watch my chickens get weighed. The company wasn't doing it, it wasn't letting us watch our
chickens get weighed.

I was on the horn to Jim Baker, the former GIPSA administrator.

He said, "No, you have the right to watch your chickens get weighed".

I knew that they were messing with the weights in our complex, I knew that they were doing that, but every time I wanted to go and watch my chickens get weighed they would never let me weigh it. And, as I understand it, the complex manager even had to sign off that we got to watch our chickens get weighed.

I want to know why the Packers and Stockyards Act isn't working -- administration does not have real penalties for me asking this question, for me to watch my chickens get weighed, and for a few other little things, they cut me off from growing business and cost me hundreds of thousands of dollars.

Where is the penalty to them?

If they can't weigh a chicken
right should they even be allowed to weigh the chickens, you know? Maybe that function, that part of vertical integration should be taken away from them. If they can't weigh the feed right and give a ticket right to us, maybe that should be diversified -- you know, divested from their part of their integration. If they can't handle their business correctly and want to cheat the farmer with their power, their market power that they have, that -- those parts just need to be taken away from them.

Now, I understand the Packers and Stockers Act is being undermined by this proof to harm to competition. When they're cheating all of these farmers out here, they're getting a monetary advantage in the market.

When they're all doing it they're colluding in that -- that -- in getting that advantage from the farmers. They're making money off of the farmers by farming
the farmers and that gives them a comparative advantage to any new entrant in the market that wants to come in.

And, so, you know, they're colluding already. And that's the excuse that the federal judges say that we -- you know, that we can't have this law enforced.

I want to know something, do these guys not know the difference between or and and? Do they not think the people who legislated this law know the difference between or and and? I mean they did know the difference.

These prohibitions were there so that these companies right here could not cheat the farmer to gain value and to be in the marketplace competing with each other. It reduces the price of the market that all of the people get in the market. And if I get cut off of chickens I can't get ten other growers and go and compete with them because they're cheating growers to get a lower price.
I mean, this is ridiculous what's been happening with these federal judges in the court cases.

And, you know, if Congress needs to act -- I mean, they've acted time and time and time again, maybe we need to get rid of a few judges, maybe we need to get the House Judiciary Committee to take out some of these judges who are just siding with these corporations and cheating the family farmer.

I mean, what else can we do?

That's what the Constitution allows, maybe the Justice Department should ask for that.

MR. WEAVER: I don't know if gentlemen were here for the last panel that I was on. There's a couple of points that I didn't get to finish on that panel that I'd like to clarify for the folks here if you don't mind. And it's directed to you, too, because these are things that you can have input on, too, and, hopefully, make
some changes on.

They didn't give me the opportunity to express my example about the KFC price, $26.99 for a 12-piece bucket of chicken. And us, as growers, got 30 cents of that. And that being the case, there is something fundamentally wrong with -- with our private enterprise system here in this country.

But when I do -- I had these chickens if I raised them, I had them for at least 35, 36 days. The integrator has them for three days; the day they get them from the layer; the day they take them out of the hatchery and bring to me; and the day the process them. So, you know, where is the equity in that?

We've got them ten times longer than the integrators do and they make, Lord knows, how much more profit than we do because they'll never tell us.

And the example that I had of a settlement from 1985. I don't know if you
gentlemen saw that. We have proof that in 1985 growers were making 4.85 cents a pound. And today our base pay is 5.05 cents, two-tenths of a cent a pound more than it was in 1985. How is that fair?

Look -- look how much all of other costs have increased, fuel, equipment, labor, taxes, insurance, but two-tenths of a cent a pound increase.

So we -- we have to rely -- we -- we can't do it as individuals. Even as associations, we don't have the power or the authority over the mega corporations that run agriculture in this country that you folks do. And to me, that's your job.

We need your help to change the way that agriculture is run in this country, you and the Department of Justice. I forgot, we got the Department of Justice here, too. Please help us. We need your help.

MR. MARK HUDSON: Hello. My name is Mark Hudson. I'm a poultry grower from
Red Boiling Springs, Tennessee up near the Kentucky line got involved in the poultry industry 2004. And, probably, as many here would tell you, I picked the absolute worst years to get -- to get into the poultry industry.

The issues I'd like to -- like to bring to light probably isn't as pertinent to GIPSA as it just the finances of the poultry industry.

As Professor Taylor alluded to earlier, one of the unintended consequences of vertical integration is that it has created a blackhole of information.

In other words, those people that -- that would be on that waiting list to get into the poultry industry do not have good and accurate information that is unbiased from the industry.

Looking back into my own mistakes, that would the chief mistake. I did search at great length to find the pertinent information, not just necessarily
just -- just the costs, but the units, how many kilowatt hours of electricity, how many gallons of gas per -- per house top. I tried to find that information and that information did not exist. Both myself and my lender relied on the cash flow statement as delivered by the -- by the integrator.

Now, I think we've heard testimony numerous times today that those -- those particular cash flow instruments are not accurate. And both myself and the lender based their -- their decision to go with the loan and go into production on that particular document. That document wasn't accurate from the first flock that I placed and set. I think their estimate, at that time, was that it would be a 28 -- 28 cents out of every dollar would go to cover my variable costs. And that would leave me about at 72 -- 72 cents out of every dollar to handle my fixed costs, you know, my personal income and to maintain the facilities.
And the situation that we've got into on the facilities is that we have far exceeded the threshold of diminishing returns.

The capital investment of these facilities, while they may be greatly benefiting the integrator, are not returning any value to us whatsoever. When you compare that to the fact that we're making to within a very small fraction of we were generating in income in 1985. The poultry industry is in great danger of self-regulating itself because these truths as to how much it costs to operate things, and also the overhead cost and ability of income to sustain that, will tell on itself eventually unless something is changed about the industry.

So the industry representatives are here. This is a great threat to you. It's already a present threat to the growers, but if you want to continue to grow in the United States, you're going to
have to find out how to overcome this.

Either it has been mentioned, you cosign on, you become a full partner with us, or you pay for the part that's going to return you some money and leave us the part of the investment that returns us some money, but we will have to partner on this.

And apart from any GIPSA issues that may come up, you're facing a real economic problem in the United States on overhead and the inability to sustain that overhead with the income that you're returning to us.

So that would be my statement.

Thank you.

MR. FERRELL: Well, seeing no more folks wanting to provide comments, suddenly you got bashful. No, I'm just kidding.

Well, I just want to thank everybody for coming to today's competition workshop. I think we heard a number of issues today and we learned a lot from our
panelists. And I thank them for taking the
time to participate today.

I especially want to thank the
president of Alabama A&M and all the folks
here at the University that did everything
they could to get everything ready and they
did a great job, and I thank them greatly
for doing that.

I also thank our folks at USDA
and DOJ for helping get all the logistics
and everything put together. And, as I
have said at the Iowa workshop, I
appreciate the good working relationship
we've had with the Department of Justice
working on these issues and looking forward
on that.

I want to thank Congressman Davis
and Alabama Agricultural Commissioner Ron
Sparks for attending this morning.

And I will just mention that our
next competition workshop will be held on
June 25th. And it will focus on
competition in dairy issues in Madison,
Wisconsin. Then we'll have a livestock competition workshop on August 27th in Fort Collins, Colorado. And then a workshop on margins on December 8th in Washington, D. C.

I will turn it over to, Dudley, or, Bill, if you have any comments.

MR. STALLINGS: I just want to reiterate on behalf of the Department of Justice our thanks to the Alabama A&M University. It's been truly a privilege for us to be here. And a lot of people put in a lot work behind the scenes to get this -- to get this event going and -- and I think we had a really good and productive day today.

I especially want to thank all of you for coming here. We have heard throughout the day that there -- there is a real hardship in you being here, either for fear of retaliation or just the mere fact of having to take a day off of work to come here and tell your story. We have -- we
have heard your stories, we -- we understand them, we appreciate them and we understand the importance of the issues that have been talked about here today. So once, again, I just want to thank you all for -- for being here.

MR. DUDLEY: I'd just like to say that -- I want to reiterate and tell you a fact. The last time that the Packers and Stockyards Act was on a presidential agenda was on Woodrow Wilson's agenda. That's back when it was passed.

The Act is on President Obama's agenda. I think we have shown today that we are serious about this. To have the Secretary of Agriculture, to have the Attorney General, the Assistant Attorney General here. If for nothing else, it costs a lot of money to get them down here.

But they are very, very interested, as we are, in solving problems in agriculture. It is very important, not only to the industry, but to the producers,
the farmers and the consumers and we're committed to do so. And I want to thank all of you for taking time out of your busy schedules to come and visit with us and make comments.

MR. WEAVER: We owe thanks to these people right here. So they need a really big hand.

END OF HEARING
CERTIFICATE

STATE OF ALABAMA )

SHELBY COUNTY )

I, ROBERT KEITH KENNEDY, Notary Public for the State of Alabama at Large, hereby certify that I am the Certified Court Reporter who made machine shorthand notes of the foregoing proceedings at the time and place stated in the Caption thereof; that I later reduced my shorthand notes into typewriting; that the foregoing pages numbered seven through three hundred seventy-two, both inclusive, contain a full, true, and correct transcript of proceedings had on said occasion.

I further certify that I am in no way related to nor employed by any of the parties, the witnesses or counsel, and that I have no interest in the outcome of this matter.

Given under my hand and seal this the 6th day of June 2010.

Robert Keith Kennedy
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