

# Letter(s) to State Attorneys General on Protecting Contract Chicken Farmers from Unfair Business Practices

Alabama  
Arkansas  
Delaware  
Florida  
Georgia  
Kentucky  
Maryland  
Minnesota  
Mississippi  
Missouri  
North Carolina  
Ohio  
Oklahoma  
Pennsylvania  
South Carolina  
Tennessee  
Texas  
Virginia  
West Virginia  
Wisconsin

May 2, 2022

Attorney General Steve Marshall  
State of Alabama  
501 Washington Avenue  
Montgomery, AL 36104  
Sent via email

Re: Protecting Alabama's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Marshall:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Alabama's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 1.13 billion chickens were produced in Alabama in 2019, comprising more than \$3 billion in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Alabama's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Alabama's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

## **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top

or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Alabama's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
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Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
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May 2, 2022

Attorney General Leslie Rutledge  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Sent via email

Re: Protecting Arkansas' Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Rutledge:

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As you know, chicken production is an important aspect of Arkansas' economy and the food system overall. According to data from the US Department of Agriculture (USDA), 1.11 billion chickens were produced in Arkansas in 2019, comprising more than \$3.6 billion in economic value.<sup>1</sup>

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Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Arkansas' attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

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- 1) establishing a statewide chicken contract library,**
- 2) guaranteeing farmers' freedom of association, and**
- 3) investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

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## **Protecting Freedom of Association**

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## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

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Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Arkansas' chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
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2. Livestock, Dairy, and Poultry Outlook: 2022, LDP-M-333, March 15, 2022 USDA, Economic Research Service <https://www.ers.usda.gov/webdocs/outlooks/103524/ldp-m-333.pdf?v=8686> (pg 18)
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May 2, 2022

Attorney General Kathy Jennings  
Delaware Department of Justice  
Carvel State Building  
820 N. French St.  
Wilmington, DE 19801  
Sent via email

Re: Protecting Delaware's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Jennings:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Delaware's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 269 million chickens were produced in Delaware in 2019, comprising \$940 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Delaware's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Delaware's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) establishing a statewide chicken contract library,**
- 2) guaranteeing farmers' freedom of association, and**
- 3) investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

## **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top

or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Delaware's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture

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May 2, 2022

Office of Attorney General Ashley Moody

State of Florida

PL-01 The Capitol

Tallahassee, FL 32399-1050

Sent via email

Re: Protecting Florida's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Moody:

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As you know, chicken production is an important aspect of Florida's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 62 million chickens were produced in Florida in 2019, comprising \$174 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Florida's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Florida's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

## **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation.

Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Florida's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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May 2, 2022

Attorney General Christopher Carr  
Consumer Protection Division  
2 Martin Luther King Jr. Dr., Suite 356  
Atlanta, GA 30334  
Sent via email

Re: Protecting Georgia's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Carr:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Georgia's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 1.36 billion chickens were produced in Georgia in 2019, comprising more than \$4 billion in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

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Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Georgia's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

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- 1) **establishing a statewide chicken contract library,**
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## **Contract Chicken Farming and the Need for Contract Transparency**

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Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

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These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Georgia's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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May 2, 2022

Office of Attorney General Daniel Cameron  
700 Capital Avenue, Suite 118  
Frankfort, Kentucky 40601-3449  
Sent via email

Re: Protecting Kentucky's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Cameron:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Kentucky's economy and the food system overall. According to data from the US Department of Agriculture (USDA), nearly 300 million chickens were produced in Kentucky in 2019, comprising more than \$930 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Kentucky's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Kentucky's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Kentucky's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Prashasti Bhatnagar, MPH, JD Candidate  
Georgetown University Law Center  
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Robert Martin  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture



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May 2, 2022

Attorney General Brian Frosh  
200 St. Paul Place,  
Baltimore, MD 21202  
Sent via email

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**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Maryland's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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May 2, 2022

Office of Minnesota Attorney General Keith Ellison  
445 Minnesota Street, Suite 1400  
St. Paul, MN 55101-2131  
Sent via email

Re: Protecting Minnesota's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Ellison:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Minnesota's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 64 million chickens were produced in Minnesota in 2019, comprising more than \$189 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Minnesota's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Minnesota's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

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### **Conclusion**

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Sincerely,

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May 2, 2022  
Attorney General Lynn Fitch  
P.O. Box 220  
Jackson, MS 39205  
Sent via email

Re: Protecting Mississippi's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Fitch:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Mississippi's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 769 million chickens were produced in Mississippi in 2019, comprising more than \$2.3 billion in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Mississippi's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Mississippi's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.  
**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Mississippi's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Georgetown University Law Center  
Research Assistant  
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Robert Martin  
Senior Lecturer, Department of Environmental Health and Engineering  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture

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May 2, 2022

Office of Attorney General Eric Schmitt  
Supreme Court Building  
207 W. High St.  
P.O. Box 899  
Jefferson City, MO 65102  
Sent via email

Re: Protecting Missouri's Contract Chicken Farmers from Unfair Business Practices

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While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Missouri's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

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## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

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## **Protecting Freedom of Association**

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Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation.

Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Missouri's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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May 2, 2022

Attorney General Josh Stein  
9001 Mail Service Center  
Raleigh, NC 27699-9001  
Sent via email

Re: Protecting North Carolina's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Stein:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of North Carolina's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 916 million chickens were produced in North Carolina in 2019, comprising more than \$3.6 billion in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as North Carolina's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support North Carolina's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

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As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

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### **Conclusion**

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Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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May 2, 2022

Attorney General Dave Yost  
30 E. Broad St., 14th Floor  
Columbus, OH 43215  
Sent via email

Re: Protecting Ohio's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Yost:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Ohio's economy and the food system overall. According to data from the US Department of Agriculture (USDA), nearly 110 million chickens were produced in Ohio in 2019, comprising \$277 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Ohio's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Ohio's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Ohio's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Georgetown University Law Center  
Research Assistant  
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Senior Lecturer, Department of Environmental Health and Engineering  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture



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May 2, 2022

Office of Attorney General John O'Connor  
313 NE 21st Street  
Oklahoma City, OK 73105  
Sent via email

Re: Protecting Oklahoma's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General O'Connor:

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As you know, chicken production is an important aspect of Oklahoma's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 211 million chickens were produced in Oklahoma in 2019, comprising more than \$729 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Oklahoma's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

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**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

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### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

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These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Oklahoma's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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May 2, 2022

Pennsylvania Office of Attorney General Josh Shapiro  
Strawberry Square  
Harrisburg, PA 17120  
Sent via email

Re: Protecting Pennsylvania's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Shapiro:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Pennsylvania's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 201 million chickens were produced in Pennsylvania in 2019, comprising more than \$547 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Pennsylvania's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Pennsylvania's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Pennsylvania's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

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May 2, 2022

Attorney General Honorable Alan Wilson

P.O. Box 11549

Columbia, SC 29211

Sent via email

Re: Protecting South Carolina's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Wilson:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of South Carolina's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 245 million chickens were produced in South Carolina in 2019, comprising more than \$893 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as South Carolina's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support South Carolina's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms South Carolina's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
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Emily Myers, Antitrust Counsel, National Association of Attorneys General  
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May 2, 2022

Attorney General Herbert Slatery III  
Office of the Attorney General and Reporter  
P.O. Box 20207  
Nashville, TN 37202-0207  
Sent via email

Re: Protecting Tennessee's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Slatery III:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Tennessee's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 177 million chickens were produced in Tennessee in 2019, comprising nearly \$457 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Tennessee's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Tennessee's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

## **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

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or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Tennessee's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Prashasti Bhatnagar, MPH, JD Candidate  
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Robert Martin  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture



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May 2, 2022

Office of Attorney General Ken Paxton

PO Box 12548

Austin, TX 78711-2548

Sent via email

Re: Protecting Texas' Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Paxton:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Texas' economy and the food system overall. According to data from the US Department of Agriculture (USDA), 675 million chickens were produced in Texas in 2019, comprising more than \$2.16 billion in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Texas's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Texas's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Texas's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

Patti Truant Anderson, MPH, PhD  
Senior Program Officer, Food System Policy  
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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
Bruce Summers, U.S. Department of Agriculture, Agricultural Marketing Service Administrator  
Emily Myers, Antitrust Counsel, National Association of Attorneys General  
Attorney General Phil Weiser (CO), Co-Chair Antitrust Committee, National Associations of Attorneys General  
Attorney General Doug Peterson (NE), Co-Chair Antitrust Committee, National Associations of Attorneys General  
RJ Karney, Senior Director, Public Policy, National Association of State Departments of Agriculture

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May 2, 2022

Office of Attorney General Jason Miyares  
202 North Ninth Street  
Richmond, Virginia 23219  
Sent via email

Re: Protecting Virginia's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Miyares:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Virginia's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 281 million chickens were produced in Virginia in 2019, comprising \$847 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15, 16, 17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Virginia's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Virginia's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) **establishing a statewide chicken contract library,**
- 2) **guaranteeing farmers' freedom of association, and**
- 3) **investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

**Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

### **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

### **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation. Chicken farmers have also complained that companies have punished them for challenging contract terms or

organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Virginia's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

CC: Richard Powers, U.S. Department of Justice Acting Assistant Attorney General for Antitrust  
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May 2, 2022

Attorney General Patrick Morrisey  
State Capitol Complex, Bldg. 1, Rm E-26  
1900 Kanawha Blvd. E  
Charleston, WV 25305  
Sent via email

Re: Protecting West Virginia's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Morrisey:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of West Virginia's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 75 million chickens were produced in West Virginia in 2019, comprising more than \$139 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

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Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as West Virginia's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

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## **Contract Chicken Farming and the Need for Contract Transparency**

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Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

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### **Conclusion**

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Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

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May 2, 2022

Attorney General Josh Kaul  
Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857  
Sent via email

Re: Protecting Wisconsin's Contract Chicken Farmers from Unfair Business Practices

Dear Attorney General Kaul:

We are researchers at the Johns Hopkins Center for a Livable Future (CLF), an interdisciplinary academic center based at the Johns Hopkins Bloomberg School of Public Health. CLF applies science and systems thinking to help build healthy, equitable, and resilient food systems. Since 1996, CLF has studied the environmental and public health impacts of food production practices.

As you know, chicken production is an important aspect of Wisconsin's economy and the food system overall. According to data from the US Department of Agriculture (USDA), 58 million chickens were produced in Wisconsin in 2019, comprising nearly \$111 million in economic value.<sup>1</sup>

Over the last two years, consumer prices for chicken (and many other foods) have risen significantly, in part due to impacts from Covid-19 and supply chain issues. According to USDA data, the average price for boneless/skinless chicken breast hit a record high in February 2022, nearly doubling the price from one year ago.<sup>2</sup> Additional price increases could result from the recent emergence of Highly Pathogenic Avian Influenza (HPAI) in commercial chicken flocks<sup>3</sup> and global food disruptions caused by Russia's attack on Ukraine.<sup>4</sup>

Despite the challenging times, the handful of companies controlling the highly-consolidated chicken market have benefited from this market power and increased their profits significantly.<sup>5,6,7,8,9,10</sup> Just four companies—JBS, Tyson, Perdue and Sanderson—comprise more than half of the chicken market in the United States.<sup>11</sup> Consolidation and concentration of power within our food production and supply chains results in a system that is less resilient and more vulnerable to stressors.

While the companies and their shareholders profit, and consumers spend more on food, there's another group who is often overlooked and underpaid: the farmers who raise chickens under the contract farming model (further explained below). The National Chicken Council—the trade association for chicken companies—reported that farmers' pay per pound of chicken decreased 3 percent between 1990 and 2020 when adjusted for inflation.<sup>12</sup> In 2021, Tyson and Perdue settled a lawsuit filed by Alabama farmers which alleged that the companies use the contract model to push farmers into debt and lock in their compensation at unprofitably low rates.<sup>13</sup>

Contract chicken farmers — at least those willing to risk retaliation for speaking out — have been calling for changes to protect their rights for years.<sup>14,15,16,17</sup> Prior attempts at USDA rulemaking to address complaints of chicken companies engaging in deceptive practices, retaliation, and denial of due process have been withdrawn<sup>18</sup> or insufficient.<sup>19</sup> Regardless of any forthcoming USDA actions,<sup>20</sup> you have the duty as Wisconsin's attorney general to protect the public's interest and investigate potential abuses of power, including anticompetitive and collusive behaviors in your state.

We are writing today to ask you to take tangible steps to support Wisconsin's chicken contract farmers, safeguard them from exploitative corporate practices, and ensure fair competition by:

- 1) establishing a statewide chicken contract library,**
- 2) guaranteeing farmers' freedom of association, and**
- 3) investigating the tournament pricing system.**

The remainder of this letter provides additional details and justification for these recommendations.

## **Contract Chicken Farming and the Need for Contract Transparency**

Since the 1960s, chicken companies have used a contract farming model, where farmers are the producers and companies are the integrator.<sup>21</sup> According to the National Chicken Council, in 2020, 95 percent of broiler chickens were produced via the contract farming model.<sup>22</sup> In contract farming, the chicken company owns flocks of breeding chickens, hatcheries, feed mills and processing plants. The farmer is responsible for the debt, dead birds, and waste.<sup>23</sup> The farmer is also responsible for the chicken houses and any upgrades the company dictates. The company sends the farmers chicks, feed, and medicine. About six to seven weeks later, the farmer returns the full-grown chickens for processing and the cycle starts over.<sup>24</sup>

Without sufficient competition, corporations can take advantage of farmers with unfavorable contract terms that the farmers often do not have the power to negotiate. Companies have also been accused of retaliating against farmers for speaking out, delaying shipments, delivering sickly chickens, or even canceling their contracts.<sup>25</sup> As a chicken farmer noted at a 2010 meeting with then-Attorney General Eric Holder, “either I sign [the contract] 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.”<sup>26</sup>

Establishing a contract library would help facilitate greater fairness in the market and remove secrecy around contract terms. Indeed, this approach to improve transparency has been used for other types of animal production, namely swine and cattle. Congress requires USDA to maintain a Swine Contract Library containing information on the types of contracts offered by packers to swine producers. The library is intended to help producers understand contract provisions and the price discovery process and negotiate favorable contracts.<sup>27</sup> Additionally, the omnibus appropriations bill, passed by the Senate on March 10, 2022, included \$1 million to fund a cattle contracts library pilot program.<sup>28</sup>

## **Protecting Freedom of Association**

Contract farmers should not lose their rights to freedom of association and free speech just to maintain their business relationship with a company. Protecting farmer freedoms would mean that farmers could speak freely about their contracts and join poultry growers’ associations. Ensuring those rights are not threatened by guaranteeing the rights of farmers to speak freely about their contracts would help mitigate anticompetitive industry practices.<sup>29</sup>

Some states have strived to prioritize these needs by establishing agreements with companies. For example, the Christensen Farms Midwest reached an agreement with Iowa to guarantee contract farmers’ rights, “including the right to be a “whistle-blower,” the right to join an association, the right to use a contract producer lien, and the right to publicly discuss and disclose the terms of their contracts.”<sup>30</sup> This precedent provides a helpful and important example, demonstrating the role state attorneys general can play in enhancing protections and transparency for contract farmers. Arkansas, Kansas, and Maine have also codified freedom of association for contract farmers into law.<sup>31</sup>

## **Investigating the Tournament Pricing System**

The tournament pricing system was designed by the major poultry processing companies to transfer risks of production to the farmers and to control producers by pitting farmers in a region against each other. The best description of the tournament pricing system is outlined by Christopher Leonard in his 2014 book, *The Meat Racket: The Secret Takeover of America’s Food Business*: “Tyson also sets the prices for its birds. When the chickens arrive at the slaughterhouse, Tyson weighs them and tallies up how much it owes the farmer on a per-pound basis. When that price is determined, Tyson subtracts the value of the feed it delivered to grow the birds. This determines a rough payment for the farmer. But the farmer isn’t paid this flat fee. Instead, final payment is based on a ranking system, which farmers call the “tournament.” Tyson compares how well each farmer was able to fatten the chickens, compared to his neighbors who also delivered chickens that week.”<sup>32</sup>

This means that farmers’ pay is decided by factors outside their control, such as the quantity and quality of inputs that the company provides to the farmer—the chicks, the feed, and medicine (all owned by the company). Despite the lack of control over the inputs that drive their pay, farmers whose chickens didn’t grow quite as big as their competitors may earn significantly less money. The difference between being ranked on the top or bottom in a growing cycle could be tens of thousands of dollars, depending on the size of their operation.

Chicken farmers have also complained that companies have punished them for challenging contract terms or organizing with other farmers by lowering their payments in the tournament system.<sup>33</sup> In this imbalanced power structure, the farmers have limited opportunity for recourse and accountability from companies.<sup>34,35</sup>

As The Guardian highlighted in an August 2021 article focused on Tyson, the corporations decide what they are willing to pay farmers, a number that bears little relation to the true labor, environmental, animal welfare, and public health costs.<sup>36</sup>

These tournament or ranking systems should be investigated, and unfair trade practices should be prohibited. Furthermore, companies should be required to provide farmers with the data used to calculate their compensation.

### **Conclusion**

We urge you to swiftly take action to implement the recommendations described in this letter. These include efforts to provide transparency around chicken farmers' contracts, protect their freedom of association, and investigate the tournament pricing system. It is past time to address the anticompetitive corporate behavior that harms Wisconsin's chicken farmers and weakens the resilience of our food system.

Thank you very much for your attention to this important issue. Please contact Patti Anderson at [ptruant1@jhu.edu](mailto:ptruant1@jhu.edu) if we can answer any questions. Additionally, we have consulted with former contract chicken farmers in the development of this letter who are able to speak with you directly. You may also contact Mike Weaver, the president of the Contract Poultry Growers Association of the Virginias, who we have consulted with in the development of this letter, at [mbweav1@gmail.com](mailto:mbweav1@gmail.com).

Sincerely,

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Note: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

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