

PolicyPennings by Dr. Daryll E. Ray

A set of policy recommendations aimed at poultry-contracting arrangements

The last three columns have dealt with issues relating to contracting in the poultry industry, as described by C. Robert Taylor and David A Domina in a report they "prepared for the Joint US Department of Justice and US Department of Agriculture/ GIPSA Public Workshop on Competition Issues in the Poultry Industry, May 21, 2010, Normal, AL," (http://www.competitivemarkets.com/index.php?option=com_content&task=view&id=347&Itemid=50).

Taylor and Domina argue that there are two fundamental problems in the poultry industry: "[lack of] fairness in contract production" and the externalization of environmental costs by contractors to others-the growers and the general public.

Taylor and Domina set forth a number of policy recommendations. Overall, their recommendations aim to force integrators to internalize the externalities-cover the cost of the environmental problems they create-and correct the lack of balance between the information available to the integrators and the information available to the growers. Following are the Taylor and Domina recommendations:

1. "USDA must collect and publicly report average contract pay by region, at least annually.
2. "Grower settlement must be required to include basic information, such as breed, strain and sex of chicks, health and feeding histories.
3. "Growers must have means to validate essential payment computation parameters. Transparency and validation must be required.
4. "Detailed information-AgriStats-now available to integrators to share with each other must be made public promptly. This must become USDA NASS data.
5. "More information like the Alabama Farm Business Analysis Association managerial records need to be publicly provided along with educational programs on the true economics (not just cash-flow) of poultry production.
6. "Growers should be less trusting of representations made by integrators, or get such representations in writing.
7. "Contract reform must occur. Grower contracts must have legally controlling criteria; a balance of power in contracting is needed.
8. "Pre-dispute mandatory arbitration provisions and waivers to the right to trial by jury at the time of contracting must not be allowed to continue. The use of the courts and the right to trial by jury are basic to the American system.
9. "Contract must clearly state who owns used litter and waste, and not just who is responsible for disposal of waste and dead birds.
10. "Contracts must be publicly available. Legislation similar to the swine contract library must be enacted.
11. "Bankers must 'wake-up.' Routinely making 10-15 year loans on the basis of a contract that only guarantees a single flock of birds is not a sound banking practice. Multi-year contracts that guarantee only a single flock of birds do not solve the bankers or growers problems. Contracts need to guarantee a minimum number of flocks over a long enough time period to at least insure loan repayment.
12. "Banking credit standards must be adjusted to analyze long-term risks and rewards for the banker and the grower over the term of the loan, and the capital asset's useful life. This can be done with banking credit regulations that will not be an onerous burden.
13. "Contracts must be for longer time periods, and must include grower renewal options and prohibitions against assignment by the integrator to a shell entity or financially weak successor. Contracts should permit the integrator to 'buy out' of the contract at a declining rate over the life of a house."

In next week's column we will compare the recommendations of Taylor and Domina with the proposed regulations that were just-released by the USDA, as well as present our own analysis.

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