

Chicken business: Alleged industry price fixing cause consumers to pay more and growers to receive less

On Tuesday, June 2, 2020, a federal grand jury in the US District Court in Denver, Colorado, returned indictments against Jayson Penn, CEO of Pilgrim's Pride along with Roger Austin, formerly with Pilgrim's Pride; Mikell Fries, President of Claxton Poultry; and Scott Brady also with Claxton. They were charged in a one-count indictment with "conspiring to fix prices and rig bids for broiler chickens" (<https://tinyurl.com/yclkjhzl>).

The four companies under investigation are Tyson Foods, Pilgrim's Pride, Sanderson Farms, and Perdue Farms." Together the four firms control 60 percent of the chicken market in the US.

Tyson will be given leniency in the investigation because it was the first among the conspirators to agree to cooperate with the Justice Department in its chicken price-fixing investigation. In its press release, Tyson said that it was dealing with internal issues relating to the price-fixing investigation (<https://tinyurl.com/ycujb5pq>).

According to the news release from the US Department of Justice (DOJ) "The FBI will not stand by as individuals attempt to line their pockets while hard-working Americans and restaurant owners are trying to put food on their tables," said Timothy R. Slater, Assistant Director in Charge of the FBI's Washington Field Office. "Today's announcement shows the FBI's commitment to investigating allegations of price fixing so that the perpetrators can be held accountable" (<https://tinyurl.com/yclkjhzl>).

According to Politico's "Morning Agriculture," the investigation followed a 2016 private antitrust suit brought by chicken buyers seeking damages from major producers who allegedly conspired to raise prices. Kraft Heinz, Kroger, Walmart, Sysco, and US Foods are all involved in the private suit." That suit was put on hold in 2019 when the DOJ intervened in the lawsuit to protect a grand jury investigation of the charges.

National Farmers Union (NFU) President Rob Larew decried the behavior of the companies saying, "Price fixing in the agricultural industry is extremely harmful to everyone besides the companies who engage in this unethical practice. Ultimately, it means those companies pay farmers even less for their hard work while charging restaurants, grocery stores, and American consumers more for food" (<https://tinyurl.com/ycfa6rce>).

What is not addressed in this lawsuit, as pointed out by the NFU, is the power that these four companies and some smaller chicken processors hold over the growers who raise the chickens that the companies eventually sell. In 2010, the US Department of Agriculture and the DOJ held hearings around the country to examine antitrust behavior in the relationship between major chicken companies and the growers with whom they have contracts.

After the hearings were completed, Congress specifically deleted funding that would have produced regulations to put the grower/company relationship on a more equal footing. The issuing of the final rule was delayed until the waning days of the Obama administration in 2016. Even today the power that a small number of companies have over a large number of growers remains a major concern. Though the structure of the relationship between producers and processors in the pork and beef industries is different, the issue of unequal power between the parties is the same serious concern.

For instance, in the midst of the COVID-19 crisis, livestock growers are complaining that even though beef prices at the consumer level are rising they are receiving less for their cattle. They are also concerned about the lack of competition for their animals in many parts of the country.

According to an article in Forbes, “In March, U.S. Senators called for investigations into record profits for beef processors like Cargill and Tyson Foods after ranchers complained that surging meat prices due to coronavirus hoarding did not translate into higher cattle prices (<https://tinyurl.com/y73sv6sp>).

While we think that DOJ’s addressing the pricing power that meat processing companies have at the consumer level highlights a significant issue, we believe that the issue of the economic power these companies have over those who raise the animals still has not been fully addressed.

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