A FAIR FARM BILL FOR COMPETITIVE MARKETS

Institute for Agriculture and Trade Policy

A Series of Papers on the 2007 U.S. Farm Bill

The Institute for Agriculture and Trade Policy promotes resilient family farms, rural communities and ecosystems around the world through research and education, science and technology, and advocacy.

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About this publication
A Fair Farm Bill for Competitive Markets

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TOO MUCH *market power?*

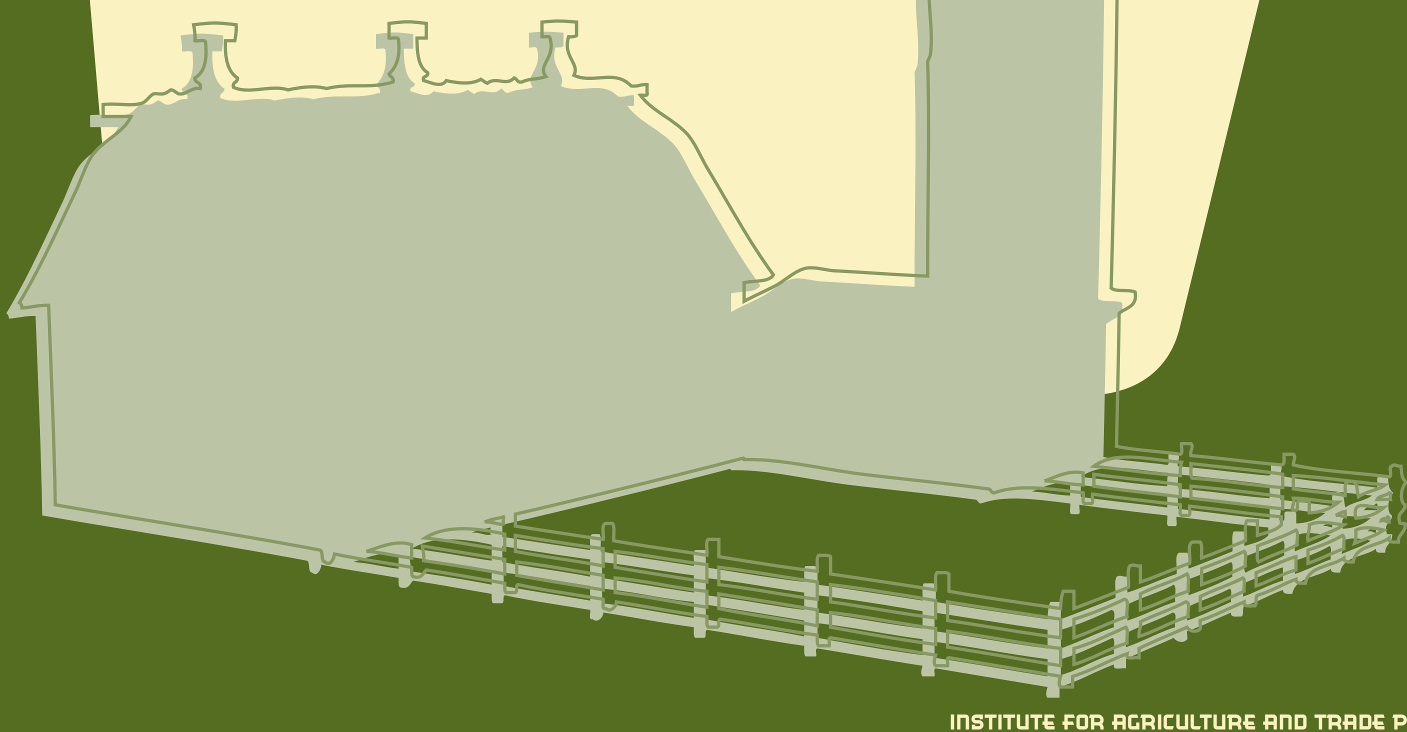
The farm economy is becoming more and more concentrated at all levels. Fewer and fewer companies control nearly all aspects of food production, from input and seed suppliers to processors, packers and supermarkets. Increased concentration has squeezed farmers on both sides of the production chain. They have fewer companies to buy farm inputs from and fewer companies to whom they can sell. In some cases, the same companies dominate multiple layers of the production chain. This increase in agriculture market concentration has raised important questions about whether competition is declining and price manipulation is occurring.

Specifically, many experts are asking whether a few agribusiness companies have too much market power. Market power is defined as the ability to affect price (setting buyer prices above and/or supplier prices below open market levels), to reduce competition by keeping out new entrants and to set the standards for a sector of economic activity.[1]

Farmers are inherently at a disadvantage in the marketplace: they are numerous, while the companies are few; individual farmers' production decisions have no effect on price; they must find capital up-front for an uncertain harvest several months in the future; and it is expensive to store harvested production, leaving most producers trying to sell their crops at the same time.

Farmers' struggles with the market power of agribusiness are not new. Traditional farm policy tools, such as a price-floor to counter the power of commodity buyers trying to push prices down and farmer-owned cooperatives formed to negotiate prices collectively, have attempted to give farmers some leverage in the marketplace. In the past, farmers and policy-makers relied on the U.S. Department of Agriculture (USDA) to review and regulate the agriculture marketplace. However, despite numerous governmental reviews criticizing the agency's inaction, the USDA continues to act as a bystander in regulating agriculture markets.

Earlier this year, hundreds of organizations called on Congress to add a Competition Title to the 2007 Farm Bill. Such a title would improve enforcement of existing laws on the books, increase price transparency in agriculture markets and add new market competition enforcement tools for the USDA. This briefing paper examines how agribusiness concentration is affecting the marketplace and proposes policy solutions for the 2007 Farm Bill.



HOW CONCENTRATED ARE *agricultural markets?*

Nearly every sector along the food chain is becoming more concentrated in the United States. One study found that 37 of 40 sectors of the food and tobacco industry experienced some degree of oligopoly power.[3] There are two types of concentration taking place in the agricultural economy: horizontal integration (a few companies dominating the same sector) and vertical integration (a few companies dominating multiple sectors in the food chain).

Many economists believe that if the top four companies in any sector control 40 percent of the market (known as the concentration ratio), competitiveness within that market begins to decline. In most sectors along the food chain, the market concentration ratio well exceeds the 40 percent threshold.

The seed industry provides an example. The USDA reported in 1997 that the share of the four largest seed firms in the U.S. market reached 92 percent for cotton, 69 percent for corn and 47 percent for soybeans.[4] It has become even more concentrated since. U.S.-based Monsanto is the largest seed company in the world. Over the past year, Monsanto took control of more than a dozen U.S.-based corn and soybean seed companies, and now controls approximately 57 percent of the U.S. cotton seed market.[5] Monsanto and DuPont (Pioneer) control 58 percent of the U.S. corn seed market.[6] In 2005, Monsanto expanded its reach when it purchased Seminis, which supplies 3,500 seed varieties to fruit and vegetable growers in 150 countries.[7]

Mary Hendrickson and William Heffernan at the University of Missouri published research in April 2007 calculating the concentration ratio of the top four companies in different food industry sectors (table, right).[8]

> *"With concentration, more economic decision-making, control and profit potential is transferred from the producer to the consolidated agricultural processing and input industries."*
>
> —DEMOCRATIC STAFF OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, U.S. SENATE, 2004[2]

CONCENTRATION RATIO

Beef Packers
CR4=83.5%
1. Tyson Foods
2. Cargill
3. Swift & Co.
4. National Beef Packing Co.

Pork Packers
CR4=66.0%
1. Smithfield Foods
2. Tyson Foods
3. Swift & Co.
4. Cargill

Broilers
CR4=58.5%
1. Pilgrim's Pride
2. Tyson Foods
3. Perdue
4. Sanderson Farms

Turkeys
CR4=55.0%
1. Butterball LLC (joint venture between Smithfield and Maxwell Foods)
2. Hormel Foods
3. Cargill
4. Sara Lee

Flour Milling
CR3=55.0%
1. Cargill/CHS (Horizon Milling)
2. ADM
3. ConAgra

Soybean crushing
CR3=71.0%
1. ADM
2. Bunge
3. Cargill

Supermarket
CR5=48.0%
1. Wal-Mart
2. Kroger
3. Albertsons
4. Safeway
5. Ahold USA

Impact OF CONCENTRATED MARKETS

Increased market concentration most directly impacts farmers, squeezing them on both sides of the production chain. Farmers have to deal with monopoly power when they buy inputs like seed, pesticides and fertilizer. And they have to deal with monopsony power (a few buyers controlling the market) when they sell their crops or animals.

Recent commodity price surges associated with ethanol tell the story of how farmers get squeezed. Even though prices for most crops rose in 2006, actual net farm income declined from $73.8 billion in 2005 to an estimated $58.9 billion in 2006, because of equally surging input costs, according to the USDA.[9] While the USDA predicts that in 2007 farm cash receipts will be up 22 percent above their average over the past decade, farm expenses are expected to rise 24 percent above the 10-year average.[10] Fertilizer companies have particularly benefited, seeing profits soar in the last year, as fertilizer costs for farmers increased from $303 per ton of anhydrous ammonia in 1996 to $521 per ton in 2006.[11]

And while costs have gone up for farmers, research and innovation from the few dominant seed biotech companies has declined. A 2004 USDA analysis found that "consolidation in the private seed industry over the past decade may have dampened the intensity of private research undertaken on crop biotechnology relative to what would have occurred without consolidation, at least for corn, cotton, and soybeans."[12]

As market concentration increased, farmers' share of the retail food dollar decreased

	1970	1993	2000
Cereal and baked products	16%	7%	5%
Processed fruits and vegetables	19%	19%	17%
Choice beef	64%	56%	44%
Pork	51%	37%	30%
White bread	9%	5%	5%
Market basket of food products	37%	26%	20%

Source: ERS/USDA, Agricultural Outlook.[14]

Confidential PRICING

Cattle, hog and poultry producers have a unique set of problems with agribusiness market power. The meat and poultry industry often uses confidential contracts with farmers and ranchers. These private contracts make it easier for companies to set prices and keep pricing information secret. For example, cattle ranchers are prevented from sharing access to the same price information, creating a great advantage for the few companies dominating the market–and making it very difficult for farmers to know what a fair market price is for what they produce. A recent study found that the way packers use livestock contracts reduces the prices that both farmers under the contracts and independent farmers buying on the spot market are paid. Similar practices impact the hog market. The same USDA study found that for every 1 percent increase in the number of hogs bought under contract, spot prices are reduced by just less than one percent.[13] A January 2003 study found that more than 86 percent of the nation's hog supply was sold under some sort of pre-arranged contract arrangement.[14]

Food safety AND LABELING

Greater food industry concentration has also affected consumers in a number of ways, most notably in the ability of a few companies to largely dictate government regulatory policy. For example, the demands of a concentrated meat and poultry industry have driven the proliferation of industrial animal factories that produce enormous amounts of manure and have been associated with a number of air, water and worker health issues.[15] Animal factories have also increased the use of animal antibiotics, which are associated with reducing the effectiveness of antibiotics used for humans.[16] Recent Farm Bills have encouraged farmers to over-produce feed crops, resulting in low prices–often below the cost of production. New research from Tufts University indicates that below-cost feed crops resulted in a $20 billion indirect subsidy to corporately owned animal factories from 1997-2005.[17]

The meat industry has successfully advocated for an increasingly privatized meat inspection system called Hazard Analysis and Critical Control Point (HAACP), which has reduced the number of government meat inspectors while allowing companies to hire their own inspectors who have less independence. The result has been a series of food safety outbreaks and recalls, including two of the largest in history for beef and poultry.

In the early 1990s, the biotech seed industry successfully lobbied the government for a policy that does not require the labeling or strong pre-market testing of genetically engineered (GE) foods. Repeated polls of consumers have shown overwhelming support for labeling of GE crops, including a 2002 nationwide poll finding that over 88 percent support labeling.[18] And numerous reviews, including from the National Academy of Sciencies, have found major gaps in government oversight of the environmental risks of GE crops.[19] In March, a federal court ruled against the USDA, finding that the agency had not conducted an environmental impact statement before its approval of GE alfalfa–a case with ramifications for future GE crops.[20]

Perhaps the most striking display of the food companies' political power is country of origin labeling (COOL). The 2002 Farm Bill included a requirement for COOL for all meat and produce in U.S. supermarkets–a provision supported by over 85 percent the American public.[21] But aggressive lobbying by the food industry de-funded the program and delayed implementation until 2008.

A captive USDA

LAX ENFORCEMENT

The USDA's Grain Inspection Packers and Stockyards Administration (GIPSA) is charged with investigating complaints of anticompetitive practices like price manipulation and restriction of competition. But the agency has been asleep at the wheel for the past decade. A January 2006 report by the USDA's Office of the Inspector General (OIG) found that USDA administrators prevented employees from conducting investigations into complaints of anti-competitive market behavior and hid its lack of enforcement by inflating the number of investigations conducted. The report, commissioned by Iowa Senator Tom Harkin, found that at least 50 investigations were being held up by GIPSA administrators.[22] Previous audits conducted by the Government Accountability Office in 2000 and USDA's OIG in 1997 revealed that inadequate coordination between GIPSA and the USDA's Office of General Council severely undermined enforcement of the Packers and Stockyards Act.[23]

REVOLVING DOOR

While the USDA was dubbed the "People's Department" by President Lincoln, it has become more of an "Agribusiness Department" according to the 2004 report *USDA, Inc.* by the Corporate Research Project of Good Jobs First.[24] The report found a fast-moving revolving door between employees working at the USDA and agribusinesses directly, or their trade associations. For example, both the former head of GIPSA, Donna Reifschneider, and its current director, James E. Link, previously worked with trade groups aligned with the dominant meatpackers.[25] *USDA, Inc.* documented that then-USDA Secretary Ann Veneman and 11 other high-level USDA staffers had close former ties to agribusiness—often in the very industries they were supposed to work with or oversee.[26]

BUYING INFLUENCE

One reason the government has been slow to tackle agribusiness concentration may be the enormous money these companies devote toward campaign contributions and lobbying expenses in Washington. In the 2006 election cycle, agribusiness contributed more than $44 million to congressional candidates, according to the Center for Responsive Politics.[27] Not surprisingly, the top recipients are nearly all from the House and Senate agriculture committees, with Republicans getting 68 percent of the contributions. And from 1998-2006, agribusiness spent more than $809 million lobbying Congress.[28]

In the 2006 election cycle, the top agribusiness contributors were:

Organization	Amount contributed	Dem. %	Rep. %
Altria Group	$1,338,053	37%	63%
American Crystal Sugar	$1,146,267	61%	38%
Farm Credit Council	$972,180	37%	63%
Dairy Farmers of America	$880,835	41%	59%
Reynolds American	$860,000	14%	86%
UST, Inc.	$585,000	15%	85%
Dean Foods	$530,000	29%	71%
Safeway Inc	$510,457	44%	56%
American Veterinary Medical Association	$483,300	40%	59%
Deere & Co.	$467,800	15%	84%
Weyerhaeuser Co.	$452,826	23%	77%
Flo-Sun, Inc.	$451,140	66%	34%
National Cattlemen's Beef Association	$388,794	24%	76%
PepsiCo, Inc.	$382,092	29%	69%
International Paper	$380,999	11%	89%
California Dairies, Inc.	$379,500	16%	82%
Connell Co.	$374,000	97%	3%
Pilgrim's Pride	$351,400	0%	100%
Food Marketing Institute	$345,571	10%	90%
National Cotton Council	$325,496	41%	59%

Source: opensecrets.org <http://www.opensecrets.org/industries/contrib.asp?Ind=A&cycle=2006>

Recommendations

While the concentration of agricultural markets in the U.S. is at an all-time high, there is some cause for optimism that Congress will take action. Several members of Congress, including Senate Agriculture Chairman Tom Harkin, D-Iowa, support the addition of a Competition Title to 2007 Farm Bill. In January, more than 200 organizations from around the country sent a letter to Congress advocating for a Commodity Title that addresses horizontal and vertical concentration of the food industry.[29]

The inclusion of a strong Competition Title in the 2007 Farm Bill would represent a major step forward toward a fairer marketplace. Such a Competition Title would include:

- **SPECIAL COUNSEL FOR COMPETITION.** Reorganize the USDA to streamline and improve enforcement of the Packers and Stockyards Act and Agricultural Fair Practices Act by establishing an Office of Special Counsel, whose sole responsibility is to investigate and prosecute violations on competition matters.
- **CAPTIVE SUPPLY REFORM.** This reform would require transparency for what are now secret, long-term formula contracts between packers and livestock feeders. Such contracts would include a fixed amount the day the contract is entered into, as opposed to a "formula" price determined by the cash market months into the future. Other packers would also be given the opportunity to bid on these contracts, which would help to reestablish price discovery in livestock markets.
- **PROHIBITION ON PACKER-OWNED LIVESTOCK.** Meat packers use packer-owned livestock as a tool for manipulating markets and lowering prices for independent producers. Prohibiting direct ownership of livestock by major meatpackers would open the markets and provide more competition among packers, which would help independent feeders get a fairer price for their animals.
- **FAIRNESS STANDARDS FOR AGRICULTURAL CONTRACTS.** Many contracts between meat and poultry companies and farmers are deceptive, confidential, and strip farmers of their legal rights. Setting fair standards for contracts would prevent these abuses.
- **CLOSING POULTRY LOOPHOLES IN THE PACKERS AND STOCKYARDS ACT.** Poultry producers should have the same basic enforcement protection that is offered livestock producers.
- **BARGAINING RIGHTS FOR CONTRACT FARMERS.** Processors should be required to bargain in good faith with producer organizations.
- **LIVESTOCK MANDATORY PRICE REPORTING.** The USDA currently requires packers, processors and importers to provide price, contracting, supply and demand information to USDA, which uses the information to create price reports for livestock producers. But the reporting process is so slow and bureaucratic that it provides little benefit to producers. The USDA should more effectively implement these requirements.
- **MANDATORY COUNTRY OF ORIGIN LABELING.** COOL for beef, lamb, fresh fruits, fish and shellfish was passed in the 2002 Farm Bill. But only fish and shellfish have been implemented. It's time for the full implementation of COOL.

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