

Campaign for Contract Agriculture Reform, Farm and Ranch Freedom Alliance, Food & Water Watch, Land Stewardship Project, Institute for Agriculture and Trade Policy, Iowa Citizens for Community Improvement, Missouri Rural Crisis Center, National Family Farm Coalition, Organization of Competitive Markets, Ranchers Cattlemen Action Legal Fund – United Stockgrowers of America, Rural Advancement Foundation International-USA, Western Organization of Resource Councils

Our organizations are promoting interrelated reforms to restore competitive livestock markets and fair contracts based on a platform supported by over 200 organizations that represent independent farmers and ranchers, contract growers, and consumers (available at <http://tinyurl.com/3gcty2>).

Agricultural Competition Issue Brief 5 of 18:
Enforce Mandatory Arbitration Opt- Out Provisions in 2008 Farm Bill

Obama-Biden Position: " Prevent Anticompetitive Behavior Against Family Farms... strengthen anti-monopoly laws; change federal agriculture policy to strengthen producer protection from fraud, abuse and market manipulation...."

Relevant Program: Packers and Stockyards Act

Relevant Agency: USDA Grain Inspection, Packers and Stockyards Administration

Policy Recommendation – Administration Action: GIPSA should take immediate enforcement action against live poultry dealers that are not complying with the arbitration clause opt-out requirements of Section 11005 of the 2008 Farm Bill. In addition, regulations should be propounded, as required by the Farm Bill, that clarify that the arbitration opt-out requirements of the Farm Bill apply to all contracts, entered into, amended, altered, modified, renewed, or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008. In its communications with live poultry dealers, GIPSA should immediately clarify that flock-to-flock poultry contracts constitute a “renewal” or “extension” of the contract, and therefore are regulated by the arbitration clause opt-out provisions of Section 11005 of the 2008 Farm Bill.

Background: Producers and growers are often forced to sign contracts mandating arbitration as a dispute resolution mechanism, prohibiting access to the courts, and making the growers vulnerable to abusive treatment. Not only is arbitration prohibitively expensive for most poultry growers, but many basic legal rights (such as discovery) are greatly limited in arbitration proceedings. In recognition of this problem, the 2008 Farm Bill (Section 11005) requires every livestock or poultry contract to contain a conspicuous provision for a producer or grower to opt out of the arbitration provision, prior to entering the contract. Some poultry companies are failing to comply with this law, and USDA has taken no action to enforce the Act or prosecute the companies for their violations.