

Part I of DOJ/USDA hearing in Wisconsin **Producers, politicians agree: Few bidders, big problems**

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MADISON, Wis—With strong words for the dairy industry last Friday (June 25), U.S. Senators Herb Kohl and Russ Feingold—both representing the Dairyland State—stressed the need for market transparency and raised questions about the disparity between what consumers pay and what farmers receive. Both issues quickly rose to the top among two roundtables and three panels during the third in a series of USDA/Department of Justice (DOJ) hearings on consolidation and competition issues in agriculture.

The daylong workshop—specifically on dairy—drew 500 people to the Union Theater at the University of Wisconsin-Madison to hear testimony from producers, consumers, cooperatives, economists, law professors, attorneys, regulators, processor trade organizations, and others.

Among the video cameras set up in the center of the auditorium was a film crew planning a documentary on what is happening in the dairy industry today.

Kohl, who chairs the Senate antitrust subcommittee and ag appropriations subcommittee, described the problem as “few bidders and tough terms of sale. When processors gain too much market power or leverage, farmers suffer.”

“Since the spot cheese market moved to the CME (Chicago Mercantile Exchange), concerns persist,” he explained. “The CFTC (Commodity Futures Trading Commission) reports the volume of cheese traded on the CME is less than 1%. This is important because this spot market sets the price of milk directly and indirectly. It’s the tail wagging the dog, and it can be manipulated.”

Sen. Kohl’s comments gave hope for some immediate action. During the producer panel, he pledged to “undertake all necessary steps to see that the CME and CFTC operate effectively.”

“The dairy industry must have market transparency, with more frequent reporting that is expanded to include more products,” he said in his opening comments. “The USDA has the authority to do it, and Congress wants to work with USDA to make it happen.”

For the dairy producer board members of DPAC (Dairy Policy Action Coalition), who traveled to Wisconsin for the hearing, these words were a high point after six months of working with members of Congress and USDA in the quest for funding to implement section 1510 of the current Farm Bill (see related story on page 17).

Sen. Feingold echoed the need for market transparency, saying oversight and enforcement are good for markets and for producers. He identified what three panels would later delve into: The link between the widening farm-to-retail price spread and the increased consolidation within the industry.

“Something is amiss,” said Feingold. “Someone between the farmer and the consumer is making money, but given the complexity of the milk market it’s difficult to target a specific culprit.”

Ag Secretary Tom Vilsack said he is concerned about the condition of rural America: “The population is aging. There is increased poverty, with a significant difference in per capita income. And we are losing population in these rural areas.”

Not only is the nation’s food production at risk, said Vilsack, but also the value system rural America brings to the table. “One-sixth of our population lives in rural America, but over

40% of our men and women in uniform serving this country come from rural America,” he noted. “We are listening, and in fact acting, on the issues facing farmers.”

Assistant Attorney General Christine Varney, the nation’s top antitrust investigator, said the task force between USDA and the DOJ also includes the CFTC and the Federal Trade Commission (FTC). “We want to promote competition that is good for farmers and keeps low prices to consumers,” she said. “We are keeping a watchful eye on this industry.”

She talked about the agency’s role in investigating market conduct. “We know that producers are concerned about the lack of choices for buyers and how their milk is priced,” said Varney. “Big is not necessarily bad. But, if you have a substantial share of the marketplace, then you have a special responsibility to adhere to competition rules.”

Dennis Wolff, former Pennsylvania Ag Secretary and current partner at Versant Strategies, testified on behalf of DPAC as part of the workshop panel on market transparency, where he said farmers unanimously agree on transparency and price discovery as the number one issue in federal milk pricing.

During the opening roundtable with officials and politicians, Wisconsin Ag Secretary Rod Nilsestuen also cited the need for better price discovery and a “vigorous national discussion about the structure of the industry that provides our country with food.”

Nilsestuen observed a lack of balanced enforcement of regulations. “We have big banks, big oil, big mining, now big food. There is widespread vertical integration in agriculture. Dairy is resistant and resilient against vertical integration,” he said. “But it will be hard to avoid this entanglement. Dairy farmers are still small in relation to retail giants, who seldom want the inconvenience of dealing with a large number of small dairies or ingredient suppliers. So it becomes a self-fulfilling process. What we look for is full compliance on antitrust guidelines and to remedy the FTC’s non-existent role.”

Vilsack and Varney then moderated a morning panel of eight dairy producers from different regions of the country before the workshop panels on specific topics consumed the afternoon. The well-informed producers did not mince words.

Several talked about the next generation and their children who are entering the dairy business. Without exception, those who mentioned their children had to pause mid-sentence to collect themselves as the over-riding concern of this whole issue is the question put by one dairyman: What kind of opportunities will they have? What kind of industry are we leaving to them? One panelist even said he had a sigh of relief when his son came to him saying he wanted to do something else.

The struggle is taking a human toll beyond the numbers on paper. At one point, Sec. Vilsack said there is a need to look out 10 years “to see what would you hope this industry would look like?”

From the Senators to the Governor of Wisconsin to some of the panelists throughout the day, there were several references to the difficulties for the young people. Diversity, alternatives and choices were said to be the keys. Politicians, producers, and others all noted that it appears as though organic dairying or grass-based dairying systems are two models that provide opportunities for young people by “differentiating” within an increasingly consolidated commodity market. Officials noted that 50% of new entries into dairy farming are graziers. In Wisconsin, the move has been away from commodity cheddar toward more artisan and specialty cheeses. Today, Wisconsin makes 600 varieties of cheese and accounts for 46% of the nation’s specialty cheese market.

Schuylerville, New York dairyman Ed King identified three key issues: “We lack market power. We are losing our share of the retail dollar, and we have a market that lacks transparency.” He said he appreciates the role of the cooperatives, but the downstream market, especially the consolidation in the retail sector, “continually demands price concessions that end on the dairyman’s doorstep.”

“It’s a feeding frenzy,” he said. “Where do we turn (to pass it along)? What we need is access to better market reconnaissance. We need changes in policy and in our systems.”

From Hatch, New Mexico, dairywoman Frances Horton summed it up as: “My job is to pay my taxes, protect the environment, produce the best quality milk possible for consumers, provide the best care possible for my animals and the best working conditions possible for my employees. My government’s job is to protect me from enemies... to keep the playing field level so that anyone who works harder and smarter and is willing to make sacrifices and take risks, should be able to make a success and provide for their families and for future generations. I have no problem with processing companies that are large. I do have a problem with companies that take dishonest advantage because they can.

“The government’s job is to set rules and limits and enforce them fairly. I want my government to do a better job of enforcing the rules we already have... and to be more careful of the imports we allow to come in. Dairy farmers are united in their goals,” she concluded. “We need a better system of pricing milk that cannot be manipulated by the thinly-traded CME.”

Joaquin Contente, a Hanford, California dairy producer stressed “the lack of a functional marketplace.” He also went through the numbers showing the U.S. is a milk deficit nation. And he told how unregulated proteins are not always included in the import data.

“Even though imports were down 40% in 2009, the casein, caseinate and MPC imports representing six billion pounds of milk equivalent still came in and was utilized,” he said. “When you add it all up 200 billion pounds of milk was needed to satisfy the needs of our domestic marketplace and we produced 180 billion.”

Darin Von Ruden, a Westby, Wisconsin dairy producer talked about the early 1990s Wisconsin cheese price task force that tried to regulate the Green Bay Cheese Exchange.

“The state assembly proposed rules that would have prohibited trading against interest,” he said. “But the traders moved the Exchange to the CME. If we regulate against manipulation in one state, they will move the Exchange to another state. That’s why we need this addressed at the federal level.”

Von Ruden said a key regulation that was being considered at that time was to prevent a net-seller from being a buyer on the Exchange and to prevent a net-buyer from being a seller, because this “trading against interest” creates an incentive to determine the spot price that ultimately gets captured in the NASS Survey and used by USDA in calculating Federal Order minimum milk prices.

From Riverdale, California, Jamie Bledsoe noted that his family lost in 2009 all the equity it took them 25 years to build. “As the industry moves to fewer and larger participants, everyone is working to squeeze costs out of the system at every link in the chain,” he observed. “The dairy industry is unique in that milk is produced continuously and it is still being produced by the people who own the cows.”

He had suggestions on dairy policy, but as relates to markets, he cited the importance of keeping up the milk standards and keeping marketing options open to producers.

While Christine Sukalski of Leroy, Minnesota focused her comments on the need for choices in the area of technology and her appreciation of the cooperative system, she also cited the loss of the dairy farmer’s share of the consumer dollar, which was around 52% in the 1990s and has fallen to 27% in 2009.

Kendall, Wisconsin dairy producer Joel Greeno referred to himself as “a voice for the voiceless.” He had harsh words for the World Trade Organization and the CME. He said all of the volatility is caused by the CME, where the ups and downs have looked like “a heart monitor, but now it just looks like a heart attack.”

Greeno said the volatility comes from the fact that the CME cheese market has basically only one buyer (Davisco Foods International based in Minnesota with Jerome Cheese in Idaho as a division) and one seller (Schreiber Foods, the largest privately held cheese company in the world, based in Green Bay, Wisconsin.)

Greeno's bottom line was that, "Dairy farmers deserve dignity."

This three-part series will continue in Farmshine, providing information from the three panels at the DOJ / USDA hearing.

CAPTION:

DOJ-USDA-0421

Sen. Herb Kohl (right) shares his concerns about the CME driving the producer pay price and said USDA already has the authority it needs for more frequent price reporting on more products. To his left are Assistant Attorney General Christine Varney and U.S. Ag Secretary Tom Vilsack who chaired the joint DOJ / USDA Workshop in Madison, Wisconsin last Friday.

DOJ-USDA-0428

The DOJ / USDA hearing drew 500 people to the University of Wisconsin-Madison Union Theater. (In addition to two roundtables and three panels, the workshop also set aside two hours for at-large public comment—one hour before lunch and one hour at the end of the day. A steady progression of more than a dozen producer members of dairy cooperatives stepped to the microphone during the lunch hour public comment period to tell Vilsack and Varney that they have "a lot of choices" to market their milk, but they chose DFA or Land O'Lakes, or St. Albans Cooperative, for example, because they provide health insurance and member benefits and take care of marketing their milk so they can concentrate on running their farms. The second public comment hour included consumers who were concerned that the dollars they pay at the grocery store are not getting to the farmers and imploring officials to "do the right thing before consumers get angry too.")

DOJ-USDA-0425

The producer panel at the DOJ / USDA workshop, from left, are: Darin Von Ruden, Westby, Wis.; Jamie Bledsoe, Riverdale, Calif.; Christine Sukalski, Leroy, Minn.; Joaquin Contente, Hanford, Calif.; Ag Secretary Tom Vilsack; Assistant Attorney General Christine Varney; Sen. Herb Kohl; Congresswoman Tammy Baldwin (Wis); Frances Horton, Hatch, N.M.; Ed King, Schuylerville, N.Y.; and Joel Greeno, Kendall, Wis.