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Sent: Thursday, December 31, 2009 8:42 AM
To: ATR-Agricultural Workshops
Cc: Jerry Slominski; Clay Hough
Subject: Submission of Comments

The attached file contains the comments of the International Dairy Foods Association submitted in response to the joint USDOJ and USDA request in advance of the joint public workshops that will explore competition and regulatory issues in the agriculture industry.

In addition to the attached electronic copy, two paper copies were sent last evening by overnight service for delivery today.

Respectively submitted,

Robert D Yonkers

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Dairy Forum 2010

January 17-20, 2010 | Phoenix, AZ

For more information or to register, please visit <http://www.idfa.org/events--trade-show/interactive-event-calendar/details/6/>

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In response to the request by the U.S. Department of Justice (DOJ) and U.S. Department of Agriculture (USDA), these comments are filed on behalf of the International Dairy Foods Association (IDFA) in advance of the recently announced joint public workshops that will explore competition and regulatory issues in the agriculture industry (DOJ Press Release dated November 13, 2009). In particular, these comments discuss the impact of government regulations on farm milk prices in the U.S.

I am Robert D. Yonkers, Vice President and Chief Economist with IDFA. I have included a brief resume at the end of these comments which also describes the role IDFA plays in the dairy industry. In addition to submitting these comments, I would appreciate the opportunity to appear in person at the workshop scheduled to be held June 7, 2010 in Madison, Wisconsin.

The dairy industry is the most regulated of any agricultural commodity in the U.S. This begins at the farm with sanitary regulations, continues in the processing sector with minimum farm milk price regulation coupled with more sanitary regulations and more standards of identity than any other food sector, and ends with still more regulations regarding product distribution. These comments specifically address the minimum farm milk prices under federal and state milk price regulations, and the associated transparency of dairy prices.

Government Regulation of Minimum Farm Milk Prices

Under the 1937 Agriculture Marketing Agreement Act (AMAA) as amended, USDA operates the Federal milk marketing order (FMMO) system. In the past decade, nearly 70 percent of all farm milk marketed in the U.S. has been regulated by FMMO's. Much of the rest of farm milk is regulated by state price regulations which are similar to that of FMMO's, including but not limited to the largest milk producing state, California, as well as other top 5 dairy states like New York and Pennsylvania and even states with much less milk production like Maine and Nevada.

A common feature of both FMMO and state milk price regulation is the establishment of minimum prices which handlers (processors and manufacturers of milk and dairy products) must pay to dairy producers or their cooperative associations. These minimum farm milk prices change based on formulas each month. In addition, FMMO and state milk regulations include provisions which define geographic areas of each marketing area, classify farm milk according to use, set minimum farm milk prices for each class of use, and pool the weighted average value of all farm milk uses in a marketing area in order to pay all dairy producers a uniform, or blend, price for milk regardless of how each dairy producer's farm milk was used.

Using FMMO's as an example, USDA has defined 10 geographic marketing areas across the U.S. These FMMO's classify farm milk and milk components based on what dairy products are made; Class I is farm milk used to make packaged fluid milk products; Class II includes farm milk used to make so-called soft manufactured dairy products, including but not limited to packaged fluid cream products, ice cream, yogurt, sour cream and cottage cheese; Class III is for farm milk used in the manufacture of all cheeses other than cottage cheese, including hard cheeses and spreadable cheeses (e.g., cream cheese);

Class IV includes farm milk used to make butter and related products and dry milk products such as nonfat dry milk and whole milk powder as well as packaged condensed and evaporated milks.

For each of these four classes of milk USDA sets minimum prices. For all class milk and milk component prices, USDA uses four milk component price formulas, one each for butterfat, nonfat solids, protein and other solids. Each of these formulas includes three factors set by USDA under the formal rulemaking procedures required under the 1937 AMAA; a yield factor to account for the amount of the dairy product made from a pound of milk component; a make allowance to account for all costs of processing and marketing the dairy product made from a pound of component other than farm milk and other dairy ingredients; and a wholesale dairy product price. The butterfat component price formula uses the wholesale price of butter, the nonfat milk solids formula uses the wholesale price of nonfat dry milk, the protein formula uses the wholesale price of cheddar cheese, and the other solids price formula uses the price of dry whey.

Only the wholesale dairy price changes each month. The yield factors and make allowances are set by USDA and may only be changed as the result of a formal hearing process. Therefore, the minimum farm milk and component prices set under FMMO's change each month based on changes in the wholesale prices of the four dairy products used in the formulas.

USDA has established procedures for the mandatory reporting of all eligible dairy product transactions for these four wholesale product prices. All eligible U.S. manufacturers are required by law to report the volumes and prices (and, in the case of cheddar cheese in 500-lb barrels, the moisture content) of all eligible sales transactions which occur each week. USDA publishes the total volumes sold and the weighted average prices each week and then each month calculates two additional weighted averages; a two-week average and a monthly average. These two-week (also known as advanced prices) and monthly average wholesale dairy product prices are then used in the component price formulas.

And if this is not complex enough, USDA then uses these milk component values in various defined calculations to determine the minimum farm milk prices handlers must pay for milk. The minimum Class IV farm milk price is based on the minimum butterfat and nonfat solids, and therefore is based on the butter and nonfat dry milk wholesale market prices. The minimum Class III farm milk price is based on the minimum butterfat, protein and other solids prices, and therefore is based on the butter, cheddar cheese and dry whey wholesale market prices. Both the Class III and Class IV minimum farm milk prices are calculated using the monthly average wholesale dairy product prices.

The minimum Class I and Class II farm milk prices are based on the same milk component price formulas, but use the two-week average wholesale dairy product prices calculated by USDA (the exception is the Class II minimum butterfat price, which uses the same monthly average wholesale butter price as is used for Class III and IV). In addition, the Class II minimum farm milk price includes an additional, fixed added value of 70 cents per hundredweight of farm milk (or 0.7 cents per pound of milk component), known as the Class II differential. There is also a Class I differential, but this is not a

fixed value; rather USDA has set a different Class I differential for every county in the U.S.

The Transparency of Farm Milk and Dairy Product Prices

The regulation of minimum farm milk prices by FMMO's and states has resulted in a USDA publication of a variety of milk and dairy prices on a regular, and indeed set, schedule. Each week, USDA publishes the result of the mandatory reporting of all eligible sales transactions by all eligible manufacturers of butter, nonfat dry milk, cheddar cheese and dry whey. Then, each month, USDA publishes the minimum farm milk and milk component prices which handlers must pay to dairy farmers and their cooperative associations.

One result of this wealth of published milk and dairy product price data is perfect knowledge throughout the industry of both the minimum price levels, and even more importantly the month- to-month changes in these minimum prices. Buyers of milk and dairy products, such a retailers, restaurants and other food service firms, and food processors using dairy products as ingredients have access to this price information at the same exact time as dairy producers and handlers.

In addition to these data which are necessary for USDA to calculate the FMMO minimum farm milk prices, USDA also reports other dairy price information. USDA market reports include wholesale price data on other dairy products, including but not limited to process American, brick and/or muenster, monterey jack, blue, mozzarella and Swiss cheeses, dry whole milk, dry buttermilk, whey protein concentrate, lactose, evaporated milk, and bulk Class II cream and condensed skim milk. These prices are reported weekly, and USDA also publishes monthly averages.

In addition to the published FMMO minimum farm milk and component prices, USDA also publishes monthly average farm milk prices received by farmers (and the average butterfat content for farm milk) for 23 states (and annual averages for all states). For milk regulated by FMMO's, USDA publishes what is known as the average mailbox price for each month for 19 defined market areas under FMMO regulation plus California for a total of 20 market areas. Each month, USDA also publishes the announced cooperative association Class I milk price for 30 major U.S. city markets, which represents the cost of farm milk to fluid milk handlers (the Class I minimum farm milk price plus the publically announced charges handlers are required by cooperative associations to pay for farm milk). Finally, USDA publishes data on over-order charges on producer milk for Class I and Class II use for 7 FMMO marketing areas, and in the past has published this data for Class III and Class IV also.

Summary

The U.S. government has numerous regulations that impact the quality, safety and price of milk and dairy products from the cow to the consumer. Of particular note are the minimum farm milk price regulations under the Federal milk marketing order system and the many related state regulations. These regulations result in the ready availability of a wealth of dairy market information on farm milk and wholesale dairy product prices,

most weekly, some monthly and all annually. This price data is available to all market participants simultaneously, from dairy producers to processors and manufacturers to retailers, restaurants and other end users of dairy products.

Respectfully submitted

A handwritten signature in black ink, reading "Robert D Yonkers". The signature is written in a cursive style with a large, stylized "R" and "Y".

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Education:

Ph.D., Agricultural Economics, Texas A&M University, 1989

M. Agr., Dairy Science, Texas A&M University, 1981

B.S., Dairy Production, Kansas State University, 1979

Current Position (since 1998):

Vice President and Chief Economist, International Dairy Foods Association.

Duties include overseeing research and analysis of the economic impact of marketing conditions, government regulations and alternative policies on the U.S. and international dairy industries. Responsible for preparing quarterly market research reports of the fluid milk, cultured and frozen dairy product, and cheese markets; publishing Dairy Facts, an annual desktop reference of dairy industry information and data; and conducting two annual workshops on the dairy industry and milk pricing regulations. Represents IDFA at federal and state dairy policy and milk price regulation hearings and meetings; national, regional and state dairy industry conferences and workshops; and on various domestic and international advisory committees, including the Agricultural Technical Advisory Committee for Animals and Animal Products, an advisory body that provides information and advice on trade issues to the U.S. Trade Representative and U.S. Secretary of Agriculture; the International Dairy Federation's Standing Committee on Dairy Policies and Economics; and the Agricultural Advisory Committee to the U.S. Commodity Futures Trading Commission.

IDFA represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies representing a \$110-billion a year industry. IDFA is composed of three constituent organizations: Milk Industry Foundation (MIF); National Cheese Institute (NCI); and International Ice Cream Association (IICA). IDFA's 220 dairy processing members operate nearly 600 plants, and range from large multi-national organizations to single-plant companies. Together they represent more than 85% of the milk, cultured products, cheese and frozen dairy desserts produced and marketed in the United States. In addition, 320 member companies provide processing equipment and supplies, packaging, ingredients, and a wide variety of products and services to the dairy processing industry. More than 15 national, state and regional trade associations are also members of IDFA.

Previous Experience:

Assistant Professor, Department of Agricultural Economics and Rural Sociology, Pennsylvania State University, 1989 - 1998. Academic appointment: 75% extension and 25% research (tenured in 1996). Developed and implemented integrated extension and applied research programs addressing marketing and policy issues facing the dairy industry. Extension responsibilities included developing educational materials and delivering programs designed to increase awareness about and understanding of the dairy marketing and policy environment, and to provide relevant information for decision-making. Research responsibilities included economic analysis of the potential (ex-ante) and actual (ex-post) impacts of changing marketing conditions, alternative public policies, and emerging technologies on the structure, conduct and performance of the dairy industry. These programs focused on the profitability and economic sustainability of Pennsylvania milk producing, marketing and processing sectors, and related consumer issues.

Research Associate, Agricultural and Food Policy Center, Department of Agricultural Economics, Texas A&M University, 1986-1989

Graduate Research Assistant, Department of Agricultural Economics, Texas A&M University, 1983-85.

Graduate Teaching Assistant, Department of Animal Science, Texas A&M University, 1981-83.

Professional Activities:

American Agricultural Economics Association (member 1984- 2008)

Council on Food, Agricultural and Resource Economics, (Board Member since 2004; Vice Chair since 2007)

Northeastern Agricultural and Resource Economics Association, (Member 1989-2008; Board Member 2005-2008)

Agricultural Technical Advisory Committee for Animals and Animal Products, trade advisory committee to USTR and USDA (Member since 2001)

Agricultural Advisory Committee, Commodity Futures Trading Commission (Member since 2006)

International Dairy Federation, Standing Committee on Dairy Markets and Policy (Member since 1999; Vice Chair 2006-2007, Chair since 2008)

Gamma Sigma Delta, the National Honor Society of Agriculture (Inducted 1997)