

From: Patrick Kilsdonk [mailto:patkilsdonk@msn.com]

Sent: Tuesday, December 29, 2009 9:07 AM

To: ATR-Agricultural Workshops

Subject: Comments regarding upcoming workshops

Attached please find my comments regarding upcoming workshops regarding consolidation and anti-competitive practices in agriculture and the dairy industry.

Thank you,

Pat Kilsdonk
Marathon, Wisconsin

December 27, 2009

My name is Pat Kilsdonk and I am a veal producer from central Wisconsin. I am writing to applaud your decision to investigate anti-trust activities in agriculture and the dairy industry, and to ask that you specifically look into these same activities used by some veal meat packers within the milk fed veal industry. The non-competitive practice of these veal packers is monopolistic causing severe economic harm to producers and this type of inquiry is long overdue. This statement is not intended as an indictment of the entire veal packing industry, but rather, is aimed at the few companies that act in wanton disregard of honest and ethical business practice.

For Background: The milk fed veal industry is closely related to and an integral part of the dairy industry throughout the U.S. Veal producers purchase male calves from dairy farms and also purchase large quantities of milk replacer to feed these animals. Milk replacer is made from dried whey and whey proteins which are by-products of cheese production. Each calf in my operation consumes approximately 700 pounds of milk replacer to get to market weight. On a National level, that comes to approximately 140,000 tons consumed with a value today of over \$190 million dollars. The male calves used for feeding have a value today of over \$35 million dollars so together veal producers add over \$225 million dollars annually to the dairy industry in this country. Every dollar added to the dairy economy by veal producers is one less dollar the government has to add through various dairy support programs. There is additional economic impact as veal producers contribute to their local economy through use of veterinary services, feed mills, and many other related services.

We start with the male baby calf at approximately 7 – 10 days of age, and place them in environmentally controlled facilities where they are fed milk replacer for 21 – 22 weeks at which time they are market ready and sold to a veal packer.

Veal calves are very unique in the way they must be marketed which is a major reason for the problems we experience. Most other livestock, like cattle for example, can be sold or marketed through a livestock auction, sold to a meat packer, sold producer to producer, or simply held in a feedlot until conditions change. Veal calves must be sold directly to a veal meat packer. This is our only market. There is no other option. These calves also have a very short time frame of a few weeks when they are market ready, so their optimum value quickly drops if they are not sold in a timely manner.

Most of the calves sold by independent producers to packers is accomplished through what is called a forward contract. This contract is entered into by the producer directly with the packer where a price and delivery date for slaughter is determined sometime early in the raising cycle. The calves are priced on a carcass basis. These contracts also stipulate payment terms and pricing details including premiums, minimum carcass weights, and discounts. Veal packers normally procure their slaughter needs several months in advance, and once their supply is contracted, they don't need any additional calves. There is also a high degree of vertical integration and consolidation within the industry, so the packers have little need for extra livestock, also reducing market opportunities. The use of the forward contract and the vertical integration give packers a "captive supply" that independent producers can't fight.

The Issues: When the calves are ready for market and if the market price of the animals is less than what the packer forecast when the forward contract was initiated, the packer simply prices the animals any way he wants to; knowing the producer has no other option and is powerless to do anything about it. This is done through a variety of ways, usually by "over grading" the animals and enforcing stiff discounts to the producer. Because there is no uniform or regulated grading system throughout the industry, each packer uses a house grade to price the calf carcass. In periods of soft markets, the house grades are severely abused to create many more discountable calves: thereby saving the packer tens of thousands of dollars; and in effect, is stealing those dollars from the producer.

I have personal experience with a packer in November of 2008 who simply said my calves were inferior, and priced them in an arbitrary and predatory manner causing over \$75,000 in losses. These calves completely fit within all of the packers' written guidelines for carcass weights, yet he said they were not the size he wanted, and priced them

on a whim. Why did he do this? **Because he could.** He made up an excuse not to pay me full value, knowing full well I was powerless to do anything about it. I contacted the Packers and Stockyards Administration who investigated my case and they agreed I had an airtight complaint. Unfortunately, they could do nothing to recover the losses I incurred. The only alternative was to hire an attorney and sue for damages. Again, because of limited competition within the packing industry, I could not sue this packer because I had more calves scheduled with them over the next several months. I had no other market options, so I was forced to swallow these losses or risk even more severe financial beatings if I chose to start legal action.

I also recently have had the experience where a packer simply removed the kidneys and kidney fat on the slaughter floor, prior to weighing the carcasses. Again, this practice, when livestock is sold on a carcass basis to the packer, is expressly forbidden under current P & S regulations. By removing the kidneys and the fat, the packer was eliminating approximately 10 pounds of product he did not have to pay for. My carcass value at that time was \$2.20 per pound, so in effect; the packer was stealing \$22.00 per calf from me. I had sold over 1,500 calves to this packer under these conditions before I discovered what he was doing, so that is another \$33,000 in losses I have to absorb. Again, P & S told me it was a major violation, yet could do nothing to help me recover this money. I am a small producer who feeds approximately 2,500 calves per year and cannot absorb these types of losses due to unfair and illegal practices. This business is tough enough without having to fight unscrupulous market conditions.

These are only small examples of the many types of financial abuses producers have had to endure. Some packers completely ignore P & S regulations as to prompt payment for the livestock and the requirement to provide written transaction guidelines to the producer. I know firsthand and of other producers who have had to wait in excess of six weeks for payment for their calves, in total disregard of the prompt payment regulations within P & S. Again causing thousands of dollars in losses to those who can least afford it. When talking to the people at P & S, they told of many, many complaints about veal packer tactics but really had no power to correct these abuses. They can provide written warnings and sanctions, but are powerless to recover money damages. Again, the packers know P & S cannot really hurt them, so they continue to pick on the producer.

In Conclusion: I urge the Department of Justice to undertake a full investigation of the veal packing industry, especially with regards to anti-competitive practices which abuse the defenseless producer. Rules must be implemented allowing P & S the authority to help producers reclaim monies unfairly withheld by packers and do so in a timely manner. Standardized government grading should also be implemented to assure the producer an unbiased and fair grade. Time and space do not allow me to list more examples of packer violations, but I am very willing to gather other veal producers together and go into greater detail with anyone who is willing to investigate these abuses.

Thank You,

Pat Kilsdonk
P O Box 156
Marathon, Wisconsin 54448

patkilsdonk@msn.com