



**STATE OF VERMONT
SENATE CHAMBER
115 STATE STREET
MONTPELIER, VT
05633-5201**

January 29, 2010

United States Department of Justice
United States Department of Agriculture

To Whom It May Concern:

The Vermont dairy industry is in crisis. In the past year alone, with near record low milk prices and ever-increasing costs of production, the number of dairy farms in Vermont has dwindled to just over 1,000—a number many experts believe to represent a tipping point for the future viability of dairying in this state. Over the past ten years under the federal pricing system and increasingly anti-competitive market conditions, Vermont dairy farmers have been paid less for their milk than their cost of production for approximately 83 of the prior 120 months, almost seventy percent of the past decade. Many farmers are now at or beyond the limits of their ability to access financing, and with the spring planting season only a few months away, we stand on the edge of a major agricultural catastrophe.

The difficulties dairy farmers are facing have substantial repercussions for the entire Vermont economy. Not only does dairy serve as a major engine for economic development in its own right, but also serves as an anchor for many other farming and farm-related businesses. These include the emerging sectors supporting the local food economy, sustainable agriculture, and value-added agricultural products, which collectively have earned Vermont a reputation as a national leader in quality, sustainability, and self-sufficiency. This working landscape, in turn, serves as the major foundation of tourism, recreation, and the brand identity of Vermont.

The Senate Committee on Agriculture is convinced that the highly concentrated market structure of the New England dairy industry, throughout all sectors, is operating to the disservice of Vermont dairy farmers and milk consumers alike. The fluid milk sector of the industry is increasingly dominated by one large, nationally based dairy farm cooperative, and Vermont dairy farmers now have very few options for the initial marketing of their milk. The downstream processing sector is dominated by just two fluid milk processing concerns, which control both the procurement of raw milk from dairy farms and the sale of packaged milk to retail outlets.



Finally, the supermarket segment of the Vermont retail market is dominated by three nationally based or multinational firms.

It appears to this Committee that the anti-competitive trend in the dairy industry has not been hampered by prior federal intervention in preventing or modifying anti-competitive transactions, nor have federal laws designed to aid farmers yielded sufficient benefits. Notwithstanding efforts by the U.S. Department of Justice and multiple states attorney generals, Dean Foods has expanded through acquisitions and exclusive business arrangements to become the dominant national force in milk purchasing, and indeed controls nearly 70 percent of the fluid-milk buying market in New England. Furthermore, the Capper-Volstead Act of 1922, enacted for the purpose of exempting agricultural producers, including dairy farmers, from anti-trust laws, thereby allowing farmers to organize into cooperative associations that could leverage higher farm-gate prices than can individual producers, has offered no relief to farmers. The past decades have seen further conglomeration of dairy cooperatives, but this centralization of farm-gate dairy purchasing has done nothing to stabilize prices or create more value for producers. To the contrary, large national cooperatives have used their size and power to limit meaningful choice for producers seeking a market for their milk, while increasingly aligning the cooperatives' interests with large processors at the expense of the farmers they are designed to represent.

This Committee requests that the United States Department of Justice and the Department of Agriculture capitalize on the opportunity afforded by the anti-trust listening sessions:

- (1) to raise the awareness of the public and the government entities charged with protecting free and fair competition in the dairy industry;
- (2) to investigate the underlying reasons why Dean Foods, Dairy Farmers of America, and other processors and cooperatives have been allowed to attain national dominance in the dairy industry, stifling competition and meaningful choice for farmers;
- (3) to investigate why smaller dairy cooperatives have not been able to use the Capper-Volstead Act to stabilize and raise dairy prices in the Northeast dairy market; and
- (4) to consider whether operation of the Capper-Volstead Act continues to serve its intended purpose and function in the public interest.

We thank you for the opportunity to comment on these proceedings, and hope and trust that as a result of your efforts, the federal government will take a



critical leadership role in returning free and fair competition to the dairy industry.

Respectfully submitted,
Senate Committee on Agriculture
Vermont General Assembly

A handwritten signature in cursive script that reads "Sara B. Kittell".

Senator Sara Branon Kittell, Chair

A handwritten signature in cursive script that reads "Harold W. Giard".

Senator Harold Giard, Vice Chair

A handwritten signature in cursive script that reads "Susan Bartlett".

Senator Susan Bartlett

A handwritten signature in cursive script that reads "Matthew Choate".

Senator Matthew Choate

A handwritten signature in cursive script that reads "Robert Starr".

Senator Robert Starr