



WISCONSIN FARMERS UNION



December 3, 2009

Legal Policy Section
Antitrust Division
U.S. Dept. of Justice
450 5th Street, NW Suite 11700
Washington, DC 20001

RE: Official Comments to USDA/DOJ for Competition/Antitrust Workshops

Dear Legal Policy Section Director,

On behalf of the family farmers, ranchers and rural residents of Wisconsin Farmers Union, I am responding to the U.S. Department of Justice's request for comments about enforcement of antitrust rules in the nation's food industry.

Food-industry federal antitrust investigations must press on.

Farmers Union members say America's food industry is getting into trouble as vertical integration and monopolization increasingly control supply and demand, controlling what consumers pay and what farmers are paid.

Wisconsin Farmers Union members have, in their policies, called for more action about agribusiness concentration and antitrust issues.

"WFU calls for a congressional investigation of monopolistic business practices and growing concentration of ownership in the agricultural sector," the WFU policy states. "We urge enforcement of all antitrust laws pertaining to agribusiness concentration. We support state policies to limit corporate farming and vertical integration and to protect family farms from unfair competition and monopolistic (or non-competitive) business practices."

To support that goal, WFU members, in their policy, support:

- Full implementation and funding for country-of-origin labeling rules.
- Captive supply reform to create a ban on packer ownership.
- Strengthening livestock price-reporting mechanisms to prevent market manipulation.
- Enforcement of the Grain Inspection Packers and Stockyard Act.
- Enforcement of antitrust laws.
- Legislation to restore competition to the nation's rail system.

Farmers realize that DOJ investigators have worked on agricultural antitrust issues. It's also recognized that antitrust investigations must be thorough and detailed because, in prosecuting any violations,

federal prosecutors will face the best attorneys and defenses that some of the world's largest companies can buy.

However, America's family farmers, who depend upon fairness in competition, are quickly falling by the wayside as they struggle with practices being pursued by those companies. That only can result in a spiral that eventually could place those companies in the "too-big-to-fail" realm – an area in which America's food system can't be allowed to tread. Therefore the DOJ, with administration and legislative support, must work as quickly as possible on agriculture antitrust issues.

The food-processing and distribution industries' concentration is eliminating competition at all levels. Family farmers say the decreased competition is decreasing the prices farmers receive for their products --ultimately driving many of them from business, which leads to even more concentration.

Dairy farmers are among producers who see the losses most directly in their paychecks. But they also see evidence in the reduced numbers of dairy field representatives visiting their farms. Gone are the days when dairy-plant field representatives would stream onto farms, attempting to competitively "one-up" offers from other plants' field representatives. The farmers are forced to take the prices the relative handful of remaining dairy plants offer.

But the lack of competition -- and the resulting losses to farmers -- goes far beyond field representatives no longer making the rounds. It also runs much deeper than the dairy industry, and hits the gamut of virtually every commodity, from grains to hogs.

Antitrust indictments had been recommended in 2006 against Dean Foods and Dairy Farmers of America, which control the vast majority of milk purchased in the United States. However, the indictments recommended by a federal/state task force were put on hold within the U.S. Department of Justice. Dairy antitrust cases involving Dean Foods, DFA and HP Hood are under way in the Southeast and Northeast.

On its own, the Brazilian-based JBS company has busied the DOJ with its attempted purchase of National Beef Packing Company -- which the DOJ blocked -- and purchased beef-packing companies Swift and Smithfield Beef, respectively the fifth-largest and third-largest meat packers in the United States. In 2008, JBS also purchased U.S. feedlots that annually feed nearly 2 million head of beef. JBS also is the third-largest pork-producing company in the United States. And, most recently, JBS announced a deal to purchase Pilgrim's Pride, which controls nearly a fourth of the U.S. chicken processing.

The meat-industry integration doesn't stop with JBS, with chicken-processing giant Tyson acquiring IBP beef and pork plants.

Even with the attention required by those cases, the DOJ can't let off the throttle in enforcing the Sherman Antitrust Act and the Clayton Antitrust Act in all agricultural sectors.

We've been happy to learn that the DOJ's work hasn't ended in the dairy industry, and hope investigations grow in the areas of price collusion, improper price reporting to federal pricing programs and monopolistic processing-company purchases.

Antitrust concerns are somewhat new in the food industry, as the agricultural sector has traditionally remained one of the few remaining sectors that have maintained competition through diversity. But as the number of companies controlling food-processing companies has decreased, the divide between the prices consumers pay for food and the prices farmers receive for their commodities has increased. Centralization of processing and pricing has begun to benefit only those few remaining companies that control processing and pricing – making it easy to surmise there’s a need for increased antitrust enforcement.

During recent months, Americans faced the harsh reality that much of the nation’s banking sector had consolidated to the point in which, when faced with financial difficulties, the federal government deemed them “too big to fail.” Many billions of taxpayers’ dollars were required in bailouts for those “too big to fail” financial institutions. University of Missouri-Columbia rural sociologist Mary Hendrickson said in a recent interview that DOJ inaction concerning food-industry antitrust violations are allowing the food industry to also step into that “too-big-to-fail” realm.

“What does that mean, when the food system is too big to fail?” Hendrickson said.

America’s food supply is too important to be put into jeopardy by allowing the “too big to fail” monopolization of agriculture. I urge you to take any and all steps necessary to provide for a diverse food industry that ultimately will be beneficial to America’s family farmers and consumers.

Sincerely,

A handwritten signature in cursive script that reads "Doug Caruso". There are some additional scribbles or initials below the name.

Doug Caruso
WFU President

