



LAMERS DAIRY

Dairyland's Best

N410 Speel School Road
Appleton, WI 54915

Phone 920-830-0980
Fax 920-830-1418

FACSIMILE

Date 11/26/01

Attention:

Connie Brenner

To:

USDA, Marketing Service

From:

Dick Lamers

Fax Number:

202-690-0552

Number of Pages (including this cover) 3

Message:

Dear Madam.

Please consider the facts contained in the attached comments. Legislation which promotes the handling of money among competing handlers must be eliminated. The Marketing Service in fact, does contradict it's self in it's decision.

Questions? Please call. Thanks.

Dick Lamers

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USDA
CATTLE 1000

N410 Speel School Road
Appleton, WI 54915

Phone 920-830-0980

Fax 920-830-1418

November 23, 2001

DEPARTMENT OF AGRICULTURE
1400 Independence Ave., SW
Washington, DC 20250

Ref: Docket No. AO-14-A69, et al. : DA-00-03 Proposed rule.

The Agricultural Marketing Service of the USDA continually ignores the Act Section 608c (7)A under TERMS AND CONDITIONS COMMON TO ALL ORDERS which prohibits unfair trade practices in the handling thereof. UNFAIR TRADE PRACTICES MUST CONSIDER ALL OF THE COMPETITIVE EFFECTS OF PROPOSED LEGISLATION. The following are a few of the recommended changes to Federal Milk Orders that purposely ignore unfair trade practices or is evidence that the Marketing Service is really not capable of regulating the pricing of milk under the Orders as required by the "Act".

The real mover of milk prices:

Let us refer to a quote from proposed rule at page 19. "The Act stipulates that the price of feeds, the availability of feeds, and other economic conditions which affect market supply and demand for milk and its products be taken into account in the determination of milk prices. This requirement currently is fulfilled by the Class III and Class IV component price calculations. (This is not true.) If conditions increase supply costs, the quantity of milk produced would be reduced due to lower profit margins. As the milk supply declines, plants buying manufacturing milk would pay a higher price to maintain an adequate supply of milk to meet their needs. As the resulting farm profit margins increase, so should the supply of milk. Likewise. The reverse would occur if economic conditions reduce the supply costs. Etc"..... Later on page 20 it is stated, "Additionally, the pricing formulas developed in this decision are applicable to handlers, since handlers are the regulated parties under Federal milk order regulation."

First of all, we know that component pricing was established under the Orders as a tool for the milk-manufacturing portion of the industry so as to encourage farmers to produce milk with higher solids content so as to enable the industry to realize a higher yield of cheese or powder per one hundred pounds of milk. This means higher profits for manufacturers.

Secondly, it is widely discussed in this decision that the level of finished product prices are the basic starting price of the establishment of Class III and Class IV price levels. This product price level is reduced by a make allowance which allows the cost margins for manufacturing of the product, the cost of marketing the same and a return on investment. Under this provision, manufacturers are guaranteed to recover these costs, provided they do not pay too high of premiums for their milk. We must here keep in mind that these manufacturers compete for Grade A milk with Class I and Class II handlers who are not manufacturers of cheese or butter-powder.

The establishment of Class I and Class II prices does NOT ALLOW MAKE ALLOWANCES in the formulation. In fact there is no formulation for Classes I and II pricing for handlers.

What we see is that the Department closes it's eyes to the fact that manufacturers compete for producer Grade "A" milk with Class I and Class II handlers and the "make" allowance is not used in calculating the Class I and Class II differentials. This constitutes unequal treatment and unequal protection

under the law. The level of prices of Class I and Class II products is not considered. This constitutes unfair trade practices in the handling thereof.

The level of milk pricing:

Producer milk prices are reflective of the supply demand market. At page 63 it is stated, "NASS weighted average commodity prices for this time period, (Jan. 2000 thru July 2001), were available, and no estimates of the relevant commodity prices need to be made. Although this time period is relatively short, a number of interesting price relationships occurred in the data series..... For instance, during this period the cheddar cheese (39 percent moisture) market ranged from a low of \$1.0245 per pound during November 2000 to a high of \$1.6434 per pound during July 2001."

This is a difference of \$0.6189 per pound which is equal to approximately \$6.20 per cwt of the price of milk. This is proof that it is not the Milk Marketing Division of the USDA, which establishes the level of milk prices to producers and component pricing for Classes III and IV does not satisfy the requirement as quoted above, of providing a level of pricing to meet market need. This is not true. The only government control to this end lies with the price support system. Beyond that, Orders only support monopoly pricing and unfair trade practices. We do not believe that this is what our forefathers had in mind in the Agricultural Agreement Act.

As acknowledged in this decision, the ORDERS only establish minimum prices. The real price paid for milk is the competitive price established by competition for producer milk.

In addition to the above, manufacturers, through pooling, share the Class I and Class II differentials, eliminating the purpose of attracting milk for fluid use, and manufacturers use these differentials from the pool to attract milk for manufacturing use.

What the Department is doing in facilitating milk pricing monopolies which is illegal and in violation of the provisions of the "Act" which prohibits unfair trade practices in the handling thereof as quoted above.

Conclusion: The USDA should withdraw themselves from pricing milk under Federal Orders as they are in violation of the law. At least, Hersey's proposal to go to only two Classes of pricing is the only thing that makes sense. I'm sorry, but I believe, given the circumstances, Hersey's proposal is entirely within the scope of this hearing. Of course, a department who wishes to promote their own longevity would not see it that way.

Respectfully,



Richard J. Lamers
Lamers Dairy, Inc.