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The Organization for Competitive Markets (OCM) President Keith Mudd, Missouri, made the following statement after Canadian officials announced on January 11 that a fourth native case of bovine spongiform

rule would permit the importation of not only live cattle under 30 months of age, but beef derived from cattle of any age.

The only prudent course of action for USDA is to withdraw its final rule until questions can be answered about the prevalence of BSE in

OCM Statement on USDA's Canadian Import Rule

Editor's Note: On December 29, the U.S. Department of Agriculture announced its intention to reopen U.S. borders on March 7, 2005 to live Canadian cattle under 30 months of age and beef products derived from cattle of any age. On December 30, Canadian officials confirmed a third case of BSE in a Canadian dairy cow. On January 11, Canada announced its fourth native case of BSE - this time in a beef cow born after the Canadian feed ban was implemented in 1997. On January 10, OCM issued a press release urging Congress and the Bush Administration to delay reopening borders to live Canadian cattle until three conditions were present to protect domestic markets: 1) restore Asian import markets; 2) implement mandatory COOL; and 3) disallow importation of beef and beef products derived from Canadian cattle over 30 months of age. Following Canada's confirmation of the fourth case in a younger beef animal, OCM issued the following statement.

encephalopathy (BSE) had been diagnosed in a seven-year old Charolais beef cow in the province of Alberta.

"In light of recent events, OCM is calling upon the U.S. Department of Agriculture to withdraw its final rule seeking to resume imports of live Canadian cattle and expanded boxed beef products from Canada. OCM is also calling upon USDA and Congress to locate and permanently mark any Canadian cattle already residing in the U.S. to segregate those animals from the human food supply and animal feed chain until they can be tested for BSE.

Subsequent to USDA's announcement on December 29 of its final rule, Canada has identified two additional cases of BSE in the nation's cattle herd. During the past year Canada has tested less than 25,000 animals for BSE. The most recent case was born in March 1998, eight months after the implementation of the ruminant-to-ruminant feed ban in Canada, suggesting there are serious issues surrounding enforcement of Canada's feed ban. USDA's new

Canada's cattle population, and through an audit of Canada's feed ban compliance. These most recent cases demonstrate that the prevalence of BSE in Canada, and the risks associated, are far greater than USDA estimated. The primary mitigating factors in eradicating BSE are through the enforcement of ruminant-to-ruminant feed bans and historically conservative import standards. Now is not the time to adjust or abandon those standards at the altar of free trade. Our domestic cattle markets are at stake, as well as our well-earned consumer confidence here in the U.S.

Additionally, before international cattle and beef trade is resumed with Canada we must have a mandatory country of origin labeling (COOL) program in place in the U.S. to allow consumers to make informed purchases at the retail meat case. It is abundantly clear that the origin of agricultural products matters.

There are simply too many unanswered questions to allow Canadian imports of any kind into the U.S."

ocm

Reclaiming the agricultural marketplace for independent farmers, ranchers, and rural communities

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A MESSAGE FROM OCM PRESIDENT

Keith Mudd

Do you remember the old commercials that Oldsmobile used to run on TV and radio? They always ended the spot with a statement that their new car was “not your Fathers Oldsmobile”. If the National Pork Producers Council starts to advertise on TV they could make similar claims. The hog industry today is not your Fathers hog industry. That structure of raising hogs is dead.

Independent hog producers have seen their numbers decrease as the use of contracts has determined who raises hogs in this country. Equity and experience are meaningless when packers don't like your attitude. Contracts are awarded to those who are willing to sell their independence.

The hog industry still produces the same product it did 10 or even 40 years ago. Except for a leaner carcass with improved muscle characteristics hogs have not changed their physical appearance.

Their behavior hasn't changed at all either. When given the chance hogs are very social animals. Much like my 13 year old son they like to interact with each other. They establish a certain hierarchy, a pecking order that defines their place in the society which they live. The strongest eats and drinks when they desire and all other hogs wait their turn, unless they decide to upgrade their standing and challenge the status quo.

What about producers? As far as I can tell most farmers aren't much different than they were years ago. They still strive to produce crops and livestock to earn a living so to support their families. Many have quit one enterprise or another over the years to concentrate on what they enjoy most or where they can earn the most income. Still a lot of farmers with the skill and experience who have raised hogs recently with the proper incentive would do so again. Tens of thousands of farmers currently have unused production facilities and they possess the knowledge to make a living raising hogs. Why don't they?

The industry died. There are a few survivors raising hogs without a contract but not many. Contracts destroyed the competitive market that these independ-

ents relied upon. When the market died so did most of the hog operations in this country.

Today's hog industry illustrates what I consider to be “the” dilemma in agriculture. The structure of agriculture should concern everyone. Farmers will always farm and ranchers will always raise cattle. The question is will they be doing it as independent producers or as employees?

Contracts have a place in production agriculture. Seed production, specialty crops, and other non-commodity type production have always been raised under contract. (It's important to realize the distinction between commodities and other more specialized products.) In some instances it isn't desirable to raise certain crops without a production contract. The question is to what extent commodities should be raised in this manner. A through debate of the advantages and disadvantages of contracting need to be held before contracts destroy all competitive markets. If contracts reduce cost and increase benefits to consumers perhaps they have a place in commodity production. If though as some suspect, contracts are used only to extract the profits from many links in a vertical chain into the pockets of the strongest link they have no value to producers.

Proponents of commodity contract production claim it represents another option that some producer request. In some instances producers may feel like they have no option other than signing the contract. In other cases producers look for an advantage over similar operations and a contract may offer that advantage. There lies the rub. Many things we do on our farms and ranches when done individually are beneficial. When done collectively though they damage and destroy. Hog contracts are a perfect example. Will Farmers and Ranchers continue to act selfishly – signing contracts to produce a commodity to the detriment of the marketplace? Or will they do what is in the best interest of everyone by participating and preserving the competitive marketplace?





FROM OCM'S GENERAL COUNSEL

Michael Stumo

THE BIGGEST ISSUES OF 2005

The various reviews of 2004 were published in various publications last month in typical year end tradition. We now need to focus on 2005. What are the big issues? And what will we do to confront them?

1. Pickett v. Tyson price manipulation case: The 11th Circuit Court of Appeals will determine whether it will reinstate the February 2004 \$1.3 billion jury verdict finding Tyson violated the law in using captive supplies in cattle to artificially depress cattle prices. Attorney Joe Whatley, attorney for the plaintiff cattlemen, argued on December 17, 2004 before the appellate panel that Judge Lyle Strom was wrong to throw out the jury's decision. If we win, a new era of competition will become closer to reality. If we lose, the captive supply fight will move back to the political arena.

2. Cattlemen's Competitive Market Project (CCMP): Few realize the potential power of OCM's CCMP program to promote competition in agriculture. USDA does recognize its power, and has been working to shut this voluntary producer contribution program down. Last year, several auction markets and feedlots began the CCMP program, allowing their customers to contribute 50 cents per head unless they opted out. USDA got worried and called the markets telling them to stop. OCM sued USDA asking a federal judge in Nebraska to declare that USDA is acting unlawfully. We are hoping a decision will be issued in January. In the meantime, CCMP is gaining traction in the countryside. It will fund research, education and advocacy for more competition at the packer and retail levels. We have made a significant difference with our meager funds, we can create change with this funding.

3. Federal government hostility: The legislative and executive branches of the federal government have become increasingly hostile to pro-competition issues in agriculture. The House Ag Committee chair, Bob Goodlatte of Virginia, has voted against every issue

for which OCM stands. The Senate Ag Committee will be chaired by Saxby Chambliss of Georgia. Chambliss has a very poor voting record on competition issues. Newly confirmed USDA Secretary Johann squandered opportunities to increase competition in Nebraska and is unlikely to turn the agency from its pro-packer mindset.

While we need to continue educating the federal government officials, more promising opportunities may exist at the state level. OCM will explore these opportunities.

4. Smithfield Foods expanding in the beef sector: Smithfield Foods Inc., the nation's largest pork producer and fifth largest beef producer, appears poised for a significant expansion into the beef processing business. That's following the Smithfield, VA-based firm's purchase of a 375,000-head-capacity cattle-feeding operation late last year. In October, Smithfield announced its purchase of MF Cattle Feeding Inc. from ConAgra Foods Inc., a feedlot system consisting of three Colorado and one Idaho yards. OCM believes Smithfield is looking to buy Swift & Co., based in Greeley, CO, and owned jointly by Dallas-based investment firm, Hicks, Muse, Tate & Furst Inc., and Vail, CO-based Booth Creek Management Corp. Smithfield pioneered vertical integration in hogs and may try to bring the same business strategy to cattle.

5. Canada border: The beef sector has enjoyed a period of high prices allowing producers to repay some debt from the artificially low prices of past years. Producers have been successful in keeping the border closed to potentially risky Canadian cattle, thanks largely to R-CALF USA. On December 30, 2004 USDA announced its intention to reopen the border in March. Markets reacted by moving lower. On December 31, 2004, Canada announced yet another case of BSE. It is crucial we work to keep the border closed. Cattle prices will go into a downward spiral if the border is opened.

6. Beef Checkoff: The Supreme Court heard argument on the beef checkoff

December 8, 2004. The decision will determine the fate of the pork, dairy and other checkoffs. The National Cattlemen's Beef Assn. and National Pork Producers Council have used the tens of millions of checkoff dollars to promote concentration and unlimited trade while opposing necessary measures such as eliminating captive supply, packer ownership bans, and country of origin labeling. They also use their power to infiltrate the USDA which refuses to work with anyone else. It is important to take the money advantage from these packer-owned commodity groups and let them compete in the market place of ideas with something they are unfamiliar with... ideas.

7. International Trade Policy: The North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) are tremendous threats to agriculture. We cannot compete with third world commodities flooding the richest consumer market in the world. Agriculture will no longer generate a trade surplus as a sector. The math is clear. These agreements rob our sovereignty not only with trade policy, but strike down democratically passed laws which may hamper foreign companies ability to sell within our borders. Free trade theory is full of holes. But we have not devised a sufficient alternative. "Fair trade" has not been defined or become popular as a slogan. "Balanced trade" may have potential, especially since our trade is devastatingly unbalanced. Those criticizing the United Nations as a burgeoning world government need to double their focus on the WTO.

8. Monetary and Fiscal Policy: These issues bear mention because they are time bombs, not because OCM is active on the issues. Our budget deficit is hitting record levels at the same time our trade deficit continues doing the same. The dollar is weak against the Euro, the Yen and most world free-floating currencies. The result is our goods are cheaper in much of the world. But the trade deficit continues out of control. The white collar jobs are now being hit... hard. Asian currencies are still pegged to the dollar. China and its neighbors are hoarding dollars which is a support for our currency, but we are losing control of our destiny. Whether you are conservative or liberal, you have to look with some fear to the next 10 years and the U.S. position in the world.





news you can use

■ NATIONAL BEEF, SWIFT AND TYSON SLASHING BEEF PRODUCTION

Tyson Foods, National Beef and Swift and Co. have announced they are reducing beef production, citing lagging domestic demand and tight cattle supplies as part of the problem.

Tyson Foods says it is suspending operations at plants in Denison, Iowa; Norfolk and West Point, Nebraska; and Boise, Idaho as of Monday January 10.

The company says it will also temporarily discontinue second shift processing at its Pasco, Washington plant. The suspension of operations is expected to last three to five weeks and will reduce the company's slaughter by 25,000 to 30,000 head. Approximately 2,100 workers will be affected by Tyson's temporary slash in operations. National Beef and Swift haven't quantified how many employees will be laid off as a result of their actions.

On the heels of Tyson's announcement, National Beef said it would cut production by 10,000 to 15,000 head of cattle per week, as much as a quarter of its production, which averages 65,000 to 68,000 per week.

Swift and Co. converted its second shift from initial processing to value-added processing and cut production by 15 percent. In a company statement, Swift said "for more than one year, the U.S. beef processing industry has suffered unseasonable losses because of the inequitable market condition caused by under priced Canadian cattle, which are flooding the U.S. and other foreign markets in the form of under priced boxed beef." That particular statement comes as close to the truth as you'll hear.

Although Tyson fingered the ban on exports of American beef by Asian nations as a key element in its decision, the move appears to have other motives. When the U.S. banned the import of live Canadian cattle, it simultaneously permitted the importation of Canadian boxed beef, resulting in more harm to

some packers than to others. Here's why.

Cargill and Tyson operate slaughter operations in Canada, giving them access to Canadian cattle that are selling at historically low prices since the ban went into effect. Those cattle are fabricated into boxed beef products, which are now flowing into the U.S. at levels equal to, or exceeding, the levels experienced before an imported Canadian dairy cow was diagnosed with bovine spongiform encephalopathy (BSE) in Washington State.

Tyson also said unfavorable operating margins prompted it to suspend production operations, listing a combination of tight cattle supplies, lagging domestic beef demand and the continued absence of key export markets as the basis for its decision.

This argument is confusing in light of the American Meat Institute (AMI) filing suit against USDA on December 30, asking a federal court in the District of Columbia to force the agency to lift its ban on imports of Canadian cattle over 30 months of age. (See last week's Agri-News). The historic solution for dropping demand is not increasing supply, which AMI is essentially asking the court to do.

A Wall Street Journal/Harris Interactive Health Care Poll last year showed that one in every five American adults (21 percent) felt that fear of BSE would alter their eating habits, while 78 percent of those polled said they would eat less beef. Sixteen percent said they would quit eating beef altogether.

Through their national association's lawsuit, the meat packing giants are asking for more cattle to be permitted across the border in the form of older animals, while at the same time adamantly opposing a mandatory country of origin labeling program in the U.S.

Interestingly, AMI's filing came just one day after USDA announced its intention to reopen Canadian live cattle trade and expanded boxed beef on March 7, 2005. USDA's rule would permit live Canadian cattle under 30 months of age and beef derived from any age cattle. The packers are arguing that if the beef derived from older cattle is safe, then the cattle themselves should be safe to import as well. The association of packers said it is seeking injunctive relief against enforcement action of the original ban initiated in

May 2003.

Mark Dopp, AMI's senior vice president for regulatory affairs and general counsel said after the suit was filed, "We need to behave like the integrated North American meat industry we have become. The U.S. and Canada both have implemented state of the art, meat inspection and animal disease prevention systems. As we look across the borders, we see near mirror images of one another."

The evidence at hand proves the contrary, but AMI doesn't seem to want to be bogged down with the facts. Of the BSE-infected cattle found in North America all have been native to Canada. One was imported into the U.S. where she was diagnosed with the brain-wasting disease, resulting in the subsequent loss of Asian export markets for U.S. beef. No indigenous cases have been found in the U.S. to date, despite USDA's ramped up BSE surveillance program implemented last June.

Canada has clearly suffered numerous breaches of its feed ban law, drawing the attention of a number of U.S. Senators and Representatives. Senator Conrad Burns (R-MT) and Ken Conrad (D-ND), in a recent letter to Johanns, said there was "major non-compliance" with Canadian feed rules by seven Canadian mills, and urged Johanns and the Bush Administration to delay the decision to resume trade with Canada.

In December of last year, the Vancouver Sun reported that the Canadian Food Inspection Agency (CFIA) had secretly conducted random tests of 70 feed samples. More than half of the sampled feeds contained animal remains presumably prohibited under the feed ban - we don't know what species the remains came from because CFIA refused to run DNA tests to find out. The Vancouver Sun had to use the equivalent of America's Freedom of Information Act to access the documentation behind the testing program.

■ NLRB FINDS SMITHFIELD FOODS ABUSED WORKER'S RIGHTS

In a unanimous decision a panel of the National Labor Relations Board (NLRB) has affirmed a 2000 ruling by an Administrative Law Judge finding Smithfield Foods engaged in an extensive and illegal campaign to suppress worker rights at its Tar Heel, North Carolina plant.

The NLRB decision outlined widespread human and worker rights abuses committed by plant managers when workers attempted to stand up for voice on the job with the United Food and Commercial Workers Union (UFCW).

Five thousand plant workers initiated



two different campaigns. The first in 1994 resulted in numerous charges filed against Smithfield for illegal surveillance, intimidation, threats, coercion and harassment of workers. In 1997, workers again attempted to organize with the union and the company was charged with more abuses.

The NLRB ruling reaffirms the original Judge's finding against the company, in which he asked the NLRB to investigate whether or not Smithfield attorneys suborned perjury during the trial. The Judge ruled that company witnesses "lied under oath" throughout the decision. Further investigation of this finding is underway.

Other findings included:

- ~ Smithfield managers conspired with the local Sheriff Department to physically intimidate and assault union supporters.

- ~ Sheriff deputies, in riot gear and heavily armed, stationed themselves at the entrance to the plant on days that civil rights leader Revered Jesse Jackson and other religious leaders handed out literature to workers.

- ~ The company planned and instigated a "riot" following the vote count in 1997 that led to false arrests of a union supporter.

- ~ Smithfield held forced meetings to intimidate and threaten workers for supporting the union.

- ~ Smithfield paid workers above their normal rate to spy on co-workers and turn in union supporters to management consultants.

- ~ Smithfield forced a management employee to produce false statements to the NLRB in an attempt to cover up anti-union activity.

- ~ Smithfield also threatened to close the plant if the workers chose to unionize.

- ~ The NLRB found Smithfield guilty of illegally firing ten workers during the two campaigns.

The NLRB also overturned the results from the 1997 election and ordered Smithfield to hold a new election. The format and location of future elections will be determined by the Board's regional director. Ten illegally fired workers have been reinstated and back wages have been awarded.

■ AMI SUES USDA OVER LIVE CATTLE IMPORT BAN

The American Meat Institute (AMI) filed a lawsuit on December 30 in U.S. District Court for the District of Columbia charging that there is no legal or scientific justification for the U.S. Department of Agriculture (USDA) to continue to ban Canadian cattle over 30 months of age. Not only do the multi-

national packers want U.S. borders ripped open to Canadian cattle, they want cattle of any age - despite the fact that Canada now has another confirmed case of bovine spongiform encephalopathy (BSE).

The filing came just one day after USDA announced its new rule to reopen Canadian live cattle trade and expanded box beef trade on March 7, 2005. In its complaint, AMI said that USDA has no scientific support to continue the ban on older cattle and its actions are therefore "arbitrary, capricious and contrary to the law, in violation of the Administration Procedure Act." AMI said it is not challenging USDA's new rule announced on December 29, but it is seeking an injunction against enforcement of the original ban initiated in May 2003.

According to AMI the May 2003 border closing has caused Canada to expand its slaughtering capacity by building new plants and adding work shifts to existing plants. Meanwhile, U.S. packers have been hit hard economically by short cattle supplies and higher prices for lean beef and cows. Mark Dopp, AMI's senior vice president for regulatory affairs and general counsel said cattle producers in the northern tier of the U.S. who support maintaining the ban on all beef and cattle trade with Canada "are taking a narrow-minded, short-term approach to what will become a long-term problem if fundamental economic restructuring continues in the Canadian packing industry." Dopp continued saying, "We need to behave like the integrated North American meat industry we have become."

Dopp said attempts to justify the ban are "utterly irresponsible and unscientific," adding "We've said it before and we'll say it again. Calling Canadian beef unsafe is like calling your twin sister ugly. The U.S. and Canada both have implemented state of the art, meat inspection and animal disease prevention systems. As we look across the borders, we see near mirror images of one another."

AMI says apart from harming American meat packers, the agency is violating the Administrative Procedures Act, which prohibits defendants from adopting or maintaining rules that are arbitrary and capricious or contrary to the law. AMI contends there is no difference between slaughtering cattle over 30 months of age in Canada or in the U.S., apart from the economic harm it causes U.S. producers.

USDA's new rule to resume trade with Canada would permit the importation of live cattle under the age of 30 months and beef derived from cattle of any age.

In effect, AMI is saying that if USDA has determined that beef derived from

cattle of any age is safe to import then the cattle themselves should be safe for import as well. Under this contention, cattle born after the 1997 implementation of the Canadian ban on feed containing bovine byproducts would have been eligible for international trade. In other words, cattle up to about 84 months of age would be acceptable for live trade with the U.S.

The meat packing association says that since its members have no relief under the law - meaning there is no one to collect damages from - the court should issue a declaratory judgement that continued enforcement of the initial Border Closure Order is unlawful; issue an injunction against enforcement of the initial Border Closing Order now that USDA has determined that beef products from those same animals may enter the country for sale and award AMI's costs and attorney fees.

At this juncture USDA faces at least two, and perhaps three or more, lawsuits pertaining to its handling of U.S. border closures to Canadian live cattle, creating a minefield of legal arguments for the agency to pick its way through. A group of Canadian cattlemen have filed suit under Chapter 11 of the North American Free Trade Agreement claiming that USDA had no scientific justification for closing borders at all, to which the agency will have to argue that it did have the scientific support to do so. The AMI lawsuit will force USDA to argue that it does have scientific justification for banning older cattle. An impending legal challenge from R-CALF USA will force the agency to argue that it does not have the scientific justification to keep the borders closed, despite recent developments in BSE research and breaches of the Canadian feed ban law uncovered by the Canadian Food Inspection Agency.

Perhaps part of what appears to be a legal mess was by design. Let's imagine for a minute that USDA and AMI know exactly what they're doing. It's obvious USDA and the Bush Administration want the Canadian border open. There's virtually no risk to USDA if the agency loses the AMI suit. The packers will appear to be the "bad guys" and USDA will look like the inept defendant. If USDA concedes in the AMI case that it had no scientific basis when it banned Canadian cattle and beef in May 2003, the court will enter a ruling of final judgement declaring the May 2003 rule "arbitrary and capricious" - in other words finding for AMI. USDA would be bound by that decision and the borders would be reopened to all Canadian cattle, thus making the

Please see NEWS on page 7





CCMP
THE
CATTLEMEN'S
COMPETITIVE
MARKET
PROJECT

John Lockie

CCMP PROGRAM DIRECTOR

Interesting times are afoot in cattle country. It was obvious to anyone who cared to look, that the USDA was going to make a move to open the border to Canadian cattle and beef at the earliest possible time. So as the world was getting set to ring in the New Year, we not only had the USDA announcing they were going to allow in more Canadian beef, but now cattle. On the heels of the USDA announcement, came the Canadian announcement of yet another BSE positive cow.

Now, in a normal logical rational world confirmation of another BSE case in Canada would have been reason enough for the USDA to rescind their announcement. I don't know about you but I don't remember following Alice through the looking glass and down the rabbit's hole, however, that can only be

where we are. As unbelievable as it would seem, the USDA is standing by their earlier decision and is moving forward to open the U.S. border to more Canadian beef and cattle in March.

In fact, USDA Undersecretary Ron DeHaven has announced a change of U.S. policy; now for every 1 million head of cattle over the age of 24 months a country may have 2 cases of BSE a year and still be a minimal risk country. Canada with 5.5 million head of cattle over the age of 24 months now can have 11 cases of BSE annually and still be a minimal risk country.

Only the through-the-looking-glass world of the USDA ... does it make sense to continue opening the border to Canada and to downgrade our U.S. standards. I have been in contact with producers across the country and not one agrees

with the USDA. North Dakota Representative Earl Pomeroy has introduced legislation to put a stop to the USDA's potentially damaging move, until at least the U.S. can regain our export markets.

Representative Pomeroy is getting quite a bit of support from western legislators and political figures. Pomeroy's legislation could use some strengthening, but is a good starting point.

This will be my last submission as the Program Director for the Cattlemen's Competitive Market Project. I have informed OCM President Keith Mudd, that I will not be renewing my contract with OCM/CCMP. As many of you know I have two young children at home (a 3 year old boy and a 7 month old girl) and my first and foremost commitment is to them and my wife. I have accepted a position with the Montana Cattlemen's Association that will allow me to stay in the state and spend more time with my family.

I sincerely thank the OCM board and members for their support and the opportunity to be part of the ground breaking of CCMP.

Best Regards,

John Lockie

The Maintenance of Liberty and Human Nature

By **TERRY A. STEVENSON**

Part of a continuing series

The maintenance of liberty requires a correct understanding of human nature. The founders of our country possessed this understanding. They knew well both human nature and human history and drew from that knowledge to craft the Constitution.

Many today believe that the founders mistrusted the powers of government. That would not be entirely accurate. What they mistrusted was power delegated to any human being or to any small group of human beings. Their solution to this mistrust was to dissipate the powers of government so that no individual or small group of individuals could possess an unbalanced power. That power was dispersed five different ways. They gave federal legislative, executive and judicial powers to the three branches of government, then reserved all other authority to the states and to the people. Although the phrase was not popularized until much later, the founders understood the

principle that "power corrupts." They did their best to ensure that no one in a position in government had the opportunity to exercise such undue power.

In the post Civil War era it became obvious to many that the principle of limitation and dispersion of power needed to be applied to the business world as well as in government. They saw correctly that power corrupted people in business as much as it did people in government. As a result, in the early decades of the twentieth century Congress finally passed a number of laws limiting the powers of business. Today, however, many of those laws have been ignored or rendered ineffective because the current approach to their enforcement ignores the logic that brought these laws into being in the first place. The appropriate approach to take is that power ought to be balanced not only within the government and between the government and the people, but also between the government and businesses.

There are two appropriate impositions by the government in the marketplace that limit market power, the requirements of honesty and competition. It is an

appropriate government activity to make sure that claims made in the marketplace, whether they be of product performance or of accounting reports, are honest. Likewise it is the government's responsibility to make sure that competition prevails. The notable exceptions to competition are patents and copyrights, items specifically mentioned in the Constitution. Their mention in the Constitution makes it clear that the founders understood that absence of competition was not to be a business norm.

The necessity of competition can be illustrated by looking at the example of traffic. Because of limitations imposed by traffic laws every vehicle in traffic "competes" for its position. If there were no size and speed limitations then someone could drive a vehicle large enough to take up the entire highway at any speed and at any time. Such a driver would possess excessive traffic power and be able to disregard others on the road. Everyone else would need to watch out for themselves and their ability to "compete" for highway space would disappear. There is also



no deference given in traffic laws to those who drive certain brands or colors of vehicles, nor does it matter who owns it nor how many vehicles he owns. Every individual vehicle is "equal" in traffic.

The same should be true in the marketplace. Indeed it is true in the stock exchanges. No one buying or selling stock through a stock exchange has any greater or lesser market power than anyone else. When the wealthiest man in the stock market transacts in a stock at the same time as the poorest, it is the same price. In other marketplaces in the American economy this is not so. Large meat processors are like extreme, oversized vehicles in traffic. It's difficult to "compete" with them because they often simply have their way in the marketplace.

Some would contend that we are advocating the "punishment of success." That is not the case. It would be like suggesting that term limits on someone who has succeeded in being elected President of the United States is a "punishment of success." In both cases it is simply the application of the principle of the founders of our country of the limitation of power.

By twisting history just a bit many today are arguing as if the founding principle of this country was the limitation of government rested on the more basic principle that "power corrupts." In order for us to maintain economic liberty the balance of power needs to be maintained for both government and business and between government and business. Because of the shortcomings of human nature, nothing else will work.

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subsequent August 2003 rule implemented by USDA expanding the ban on Canadian cattle no longer applicable.

Michael Stumo, general counsel for the Organization for Competitive Markets (OCM) says the suit filed by AMI should cause cattlemen to pause for careful thought. "This is an interesting legal strategy by AMI and perhaps USDA. The May 2003 rule closing the border could be ruled invalid especially if USDA strategically concedes there was no scientific justification for doing so. The R-CALF lawsuit against USDA seeks to leave the August 2003 rule in place with no future changes. The AMI suit is obviously designed to undercut and eliminate the August rule which R-CALF and U.S. producers want kept in place. USDA could 'play dead' and help this result along if they choose to do so."

The CommStock Report

By DAVID KRUSE, Commstock Investments

01/11/05

OCM General Counsel Michael Stumo quoted famous lawyer Clarence Darrow, "Sir, if the government were to own the railroad, it would be a terrible thing, but it would be even more terrible if the railroad were to own the government."

Railroad trusts never owned the railroads in Darrow's day to the extent that corporate interests, including ag corporate interests, own the government today. While trusts, monopolies, oligopolies, sonopaships were once considered unfair, unethical, even un-American, today concentration of corporate power and diminished competition is considered by many to be desirable, even inevitable.

Smithfield Chairman Joe Luter III set the goal for corporate interests. "We have to convince opponents that vertical integration is coming and that it's irreversible. We have to show them that these anti-corporate farming laws have cost states with such laws pork production as production has increased in states without such laws, and we have to show them that a national corporate farming law would force production to Canada, where grain is cheaper, or Mexico, where labor is cheaper." The concentration of corporate power in agriculture is accelerating domestically and integrating globally.

Luter is dead right about the inevitability of this economic trend. Very few farmers care about their progressive loss of leverage in the economic system and many of those that profess to care won't make the logical accommodations necessary to defend their interests. I currently do not see the political capital necessary to arrest the trend of concentration in agriculture.

Joe Luter is as open about his corporate intentions as any CEO, brazenly challenging and effectively circumventing Iowa corporate farming law, going so far as to threaten the State of South Dakota. Cargill/Excel, Tyson/IBP and Smithfield Foods are determined to be the Big 3 of corporate agriculture. They are integrating globally, intending to source and process livestock/meat from anywhere to everywhere in North and South America and beyond.

Never before have the "railroads"

so owned the government as in the case of corporate ag interests owing Washington. Corporate ag interests set government policy. There is almost no differentiation between corporate ag interests and USDA policy. None. Regardless of the issue, regulation or trade, corporate ag interests, as differentiated from producer ag interests, set the government's agenda. Firewalls that existed between public and private interests have collapsed at the USDA accomplished from within as USDA is pegged with appointees from corporate employee rosters with everyone on a first name basis.

The door opens many directions as the NCBA's chief lobbyist Chandler Keys will now officially be employed by Swift. Chandler's been working for corporate interests for some time so at least his paycheck will have the right signature on it. Cargill and Tyson know what the USDA is going to do before the USDA does. Will a new Secretary of Agriculture change this? If he had the will and became an annoyance to corporate interests they would either isolate him in his job or he'd be replaced, whichever was the most politically expedient.

Corporate ag interests are poised to own U.S. agriculture and all its global subsidies. If producer-friendly laws are passed by Congress that corporate agribusiness finds unacceptable, they control key centers of power, able to circumvent implementation of such laws at several levels, Congressional committees that control funding, the rules writing process that implements laws or agency capture of those who do the implementing. Corporate ag interests have permeated all levels of government so that the courts are the only avenue of redress left and we've found that judges can even over-ride juries in Tyson/IBP's interest in the case of Pickett versus IBP so that the inevitability of concentration of integration talked about by Joe Luter is not rhetoric or theoretical.

The inevitability is part of a comprehensive strategic business plan for corporate interests to own agriculture. The "railroads" of agriculture own the government.



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