

Comments

Submitted by Ohio Farmers Union

for

The Reconvened FMMO Hearing

July 9, 2007

Pittsburgh, Pennsylvania



My name is Bryan Wolfe. I'm a dairy farmer in Ashtabula County, Ohio. I am president of the Ashtabula/Geauga/Lake County Farmers Union. I'm also vice President of the Ohio Farmers Union. My economic well-being, and that of the dairy farmer members of Ohio Farmers Union, which I represent, are tied to farm milk prices and the federal system under which that milk is priced.

Why are we here?

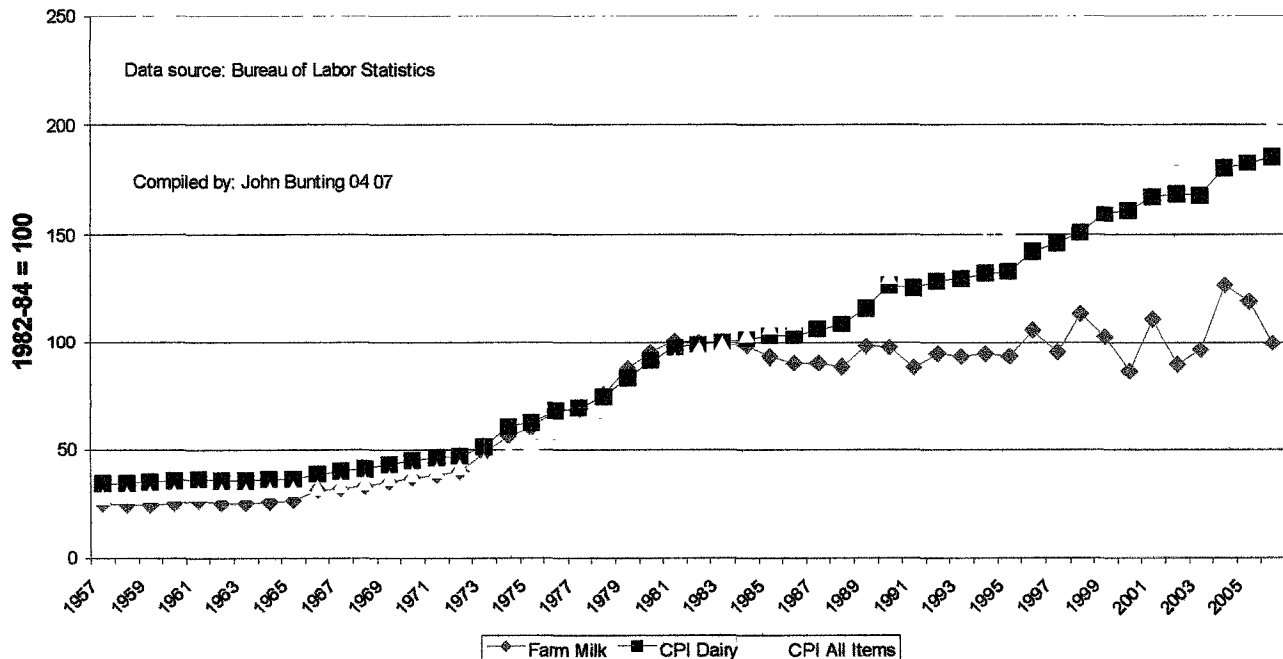
According to a USDA Economic Research Service publication:

“The FMMO system was set up in the 1930’s when milk producers had few marketing alternatives for their milk highly perishable products other than their local milk handlers. They were often, essentially captive to unfair buying practices by local milk dealers. FMMOs were designed to level the playing field by returning some market power to producers.”¹

Is there anyone here today who believes the FMMO system is still working to return market power to producers?

We would welcome any indicators which could support the idea that market equity, fairness or power were being returned to the producers?

Price Indexes For Dairy 1957 - 2006



Until the early 1980s, farm milk price did have some relationship to the market. This was assured by way of parity pricing. Since the early 1980s the consumer price has continued to track the market for

¹ <http://www.ers.usda.gov/publications/agoutlook/mar1998/ao249e.pdf>

all items. The farmers share of the consumer's dollar has been consistently trimmed, while the slice of the pie taken by those between the dairy farm and the dairy consumer has grown ever larger. This could only have happened under a serious lack of market power by producers.

Today's hearing is the result of an original request by Agri-Mark to increase "make allowances" for class three and class four products. Although Agri-Mark presents itself as a Farmer-owned Co-op within the FMMO system, according to a judicial decision in Shaw versus Agri-Mark, it is not simply a co-op, representing farmers, but it has its own legal status as a Delaware corporation.

Therefore, Agri-Mark's relationship to farmers is legally ambiguous, but its legal status as established by the courts is clearly corporate. This ambiguity helps to explain why a farmer-owned Co-op could pursue a modification to the FMMO which runs counter to the interests of its producer owners. Most of the other cooperatives behavior suggests that they too do not consistently represent the economic interests of producers.

It is a matter of simple observation and a matter of fact, that this hearing process has consistently declined to consider proposals submitted which would return equity, balance and market power to producers.

Ohio Farmers Union submitted a proposal to AMS which would have restored some market power to producers and at the same time be reflective of markets as a whole. Any sustainable market system must consider a broad range of market factors, including the cost to produce that product, plus a profit. These price signals, along with other reasonable processing, distribution and marketing costs, would be passed on to the final consumer.

The Ohio Farmers Union proposal was a three prong pricing plan. The first part takes price signals from regional farmers cost of production. This concept is basic and is reflected in the 1937 Agricultural Adjustment Act's section 608 c 18. The second part takes price signals from spot product markets. Finally, the last third considered retail price signals to the consumer. In that way, it was very much a market-oriented plan.

USDA AMS rejected Ohio Farmers Union's proposal out of hand, with no opportunity being offered to further develop or refine those items upon which USDA had rejected the proposal.

In hindsight, that was not surprising. Throughout this series of FMMO hearings, USDA has consistently ignored any proposal which includes the consideration of the cost of production for producers. Meanwhile it has consistently acknowledged and accepted proposals which consider the cost of operation for corporate entities

Section 608 c 18 specifically says, "The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities." The press release for this hearing says, "Washington, D.C., May 4, 2007 – The U.S. Department of Agriculture today announced that it will reconvene a national public hearing to consider proposals seeking to amend the Class III and Class IV product price formulas applicable to all Federal milk marketing orders."

A case was filed in Ohio, Federal District Court, on behalf of several dairy producers, to prevent the FMMO's "Make Allowance" changes. Their plea was denied. Considering the precedents in evidence

during this hearing process, such a result might have been expected.

What was unexpected, however, was USDA's dismissive attitude toward the economic impacts on farmers in this case. USDA's motion states, "Plaintiffs cannot even bring themselves to admit that the higher make allowances benefit many manufacturers of milk products (such as cheese and butter) who are no longer bound by higher minimum prices. Nor do plaintiffs acknowledge that lower minimum milk prices also translates into a cost savings for consumers of milk and milk products. Plaintiffs likewise ignore the projected savings to the public of an estimated \$7 million a year as a result of reduced government outlays."

In his decision, Judge Jack Zouhary, quotes 608 c 18 completely on page 6 of his decision, which says in part, "The prices which it is declared to be the policy of Congress to establish in section 2 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates."

Obviously, neither the judge nor USDA seems to be concerned about the price of feeds, or the relationship of the marketing area. USDA seems to hang their hat on "other economic conditions". Those other economic conditions can only be guessed at. However, the "other economic conditions" do not seem to relate to "returning some market power to producers" as mentioned by USDA ERS.

Any reasonable person might think that if this law was being taken seriously, there would be some discussion of parity, which translates into "cost of production".

As a matter of fact, this series of hearings seems to be about assuring corporate profitability by taking money from farmers. USDA's economic analysis proves that.

This series of hearings began when the on-farm milk price, adjusted for inflation, was entering its darkest days. USDA seems not to care. USDA even under-reported the NASS price survey for dairy products, further eroding the producer prices. The final chapter has yet to be written in what the actual price for nonfat dry milk really should have been.

Likewise, the final decision has yet to be written on the subject matter of this hearing. However, one could easily conclude that these hearings are not about any economic benefits or market equity for dairy farmers. It is easy to get the impression that the hearings are about protecting the profits of dairy processors and billable hours for lawyers. Clearly, the interest of neither farmers, nor the milk consuming public, is served.