

## REGIONAL MILK BARGAINING AGENCIES AND COOPERATIVE MILK PRICE BARGAINING

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Regional milk bargaining agencies have become recognized institutions in the dairy industry in recent years. The most prominent of these is the Regional Cooperative Marketing Agency (RCMA), headquartered in Syracuse, New York. More recently, Producers Equalization Agency in the Cleveland-Pittsburgh market and the Southeast Dairy Farmers Federation have been organized. What are these agencies; why are they being organized; what can they accomplish; do they offer strong potential for pursuing premium prices in other markets?

A regional milk bargaining agency is a "mixed cooperative," i.e., its membership is comprised of both individual milk producers and dairy cooperatives. The fundamental purpose for organizing a regional milk bargaining agency was to bring independent milk together with cooperative milk to establish a uniform pricing front and generate more total dollars from the sale of producer milk. One of the complaints that independent milk producers have had about existing cooperatives is what they deem to be the high operating costs and investments associated with cooperatives. Thus, a bargaining agency provides an independent milk producer with the impression or opinion that he/she has not joined a cooperative even while signing a membership agreement with the agency. Of course, the agency itself is a chartered cooperative. However, the agency commits itself to obtaining higher milk prices (when sufficient membership is signed) at a bare minimum assessment. It is probable that the primary way that an agency can minimize its marketing costs is by depending on what could be construed as indirect subsidies by the cooperatives that are members of the agency.

### *The Legal Privilege of Cooperative Bargaining*

The Capper-Volstead Act of 1922 is the essential authority that permits farmers to organize in marketing of their products. The Capper-Volstead Act is an anti-trust exemption for farmers. The experience with the Capper-Volstead Act over the decades has been one in which agricultural marketing cooperatives, subject to certain behavior constraints specified by Federal courts, are exempt from the restraint of trade and monopoly prohibitions of the Sherman Anti-Trust Act.

The Capper-Volstead Act stipulates that farmers, as individual businessmen, "may act together;" furthermore, such "associations may have marketing agencies-in-common." The Capper-Volstead Act has sometimes been described as the Magna Carta of Agricultural cooperatives. The Act makes cooperative bargaining by dairy farmers possible. The organization issue in milk markets is that while farmers may act together, they may also choose not to act together.

### *Producer Organization in the Dairy Industry*

At present, 260 milk marketing cooperatives are in operation in the United States. Approximately 76 percent of the milk in this country is marketed by dairy farmers through a cooperative in which the dairy farmers is a member-owner. The other 24 percent of the milk in the United States is identified as independent or non-member milk. In some areas, virtually all producer milk is marketed cooperatively; in other areas, less than 50 percent of producer milk may be marketed cooperatively. It is largely a matter of open or free choice in dairy farming as to whether the dairy farmer elects to market milk cooperatively.

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Milk marketing cooperatives have two overriding purposes that justify their organization. The first is to guarantee all farmer members a market and a price on a continuing basis. Many cooperatives operate milk manufacturing facilities to ensure a use for milk when buyers in the market are not demanding the milk. The second basic objective is to bargain for the best price terms possible for milk. It is this second objective that draws us closer to the regional bargaining agency concept. Federal market orders establish minimum prices for grade A milk. Cooperatives pursue their bargaining objective with the idea that if they have sufficient market power, they can become “price makers” and establish premiums or over-order prices.

Various types of cooperative marketing-bargaining arrangements have emerged in the milk industry. The primary type of organization is simply a dairy cooperative. In some markets, two or more dairy cooperatives may agree to establish prices in conjunction with one another. In effect, such a combination becomes a marketing agency-in-common. A marketing agency-in-common, by definition, is a grouping or combination of marketing cooperatives, or a grouping or combination of marketing cooperatives *and* individual farmers who market product under a common agreement.

The several types of cooperative marketing organization in the milk industry require some definition. In this discussion of milk price bargaining, the relevant organization structures to be noted include cooperative, federation, marketing agency-in-common, and regional milk bargaining agency. Each of these organizations ultimately is a marketing cooperative and enjoys the anti-trust exemption privilege provided by the Capper-Volstead Act. There are additional types of cooperative organizations such as joint ventures and holding company activities that are in effect but are not a central feature in milk price bargaining.

It is generally agreed that a cooperative is a business organization usually incorporated, that is democratically controlled and owned by its member-patrons (not outside investors); it operates at cost, and it limits returns on equity capital. A cooperative may reflect one of three different types of membership organization.

1. Centralized cooperative—a cooperative in which an individual (milk producer) holds a direct membership and is served directly by the cooperative.

2. Federation, or federated cooperative—a cooperative whose members are other cooperatives.
3. Mixed cooperative—a cooperative whose members include other cooperatives and individuals (dairy farmers) who are not members of the member cooperatives.

A regional bargaining agency is a cooperative that may have either a federated or mixed membership. Its purpose is to provide a single bargaining front on a region-wide basis.

A marketing agency-in-common may be a federated cooperative or a mixed cooperative; or it may simply be a contractual arrangement among two or more cooperatives without adopting any formal organizational structure. Its purpose is to act as the marketing-bargaining agent for those cooperatives that are participants in the agency.

### *Evolution of Milk Price Bargaining Organizations*

In the 1960 through 1990 period, over-order pricing became a relatively widespread practice in the fluid milk industry. Dairy cooperatives diminished in numbers but grew in size and influence. At the same time, federal market order prices assumed a lower profile as class I price differentials remained at constant levels for many years.

Federations of milk marketing cooperatives were an early form of combining efforts for price enhancement purposes. One of the earliest regional producer bargaining agencies was born out of the market instability of the 1930s in the New York milkshed. During the period 1923 to 1937, there were several unsuccessful attempts by individual cooperatives and the New York State legislature to achieve higher prices for the state's dairymen. Many small cooperatives had been formed during this period to allow producers to compete with out-of-state milk while state milk price control was in effect. Disunity was widespread. Following passage of the Agricultural Marketing Agreement Act of 1937, which provided the authority for federal milk marketing orders, there was a last ditch effort to achieve unity through formation of the Metropolitan Milk Producers Bargaining Agency (MMPBA). The original group of 102 member cooperatives remained intact over a two-year period while promulgating a joint federal-state milk marketing order for the New York City fluid milk market. Not long after the order took effect, many members left the organization. In 1965 MMPBA merged

with another organization, the Mutual Federation of Producer Cooperatives, to form the now defunct regional cooperative known as NEDCO (Northeast Dairy Cooperative Federation). The problems of organization had not been solved.

Further west, the Great Lakes Milk Marketing Federation (later Great Lakes-Southern, Inc.) was organized in 1960 to establish over-order class I price alignment in the Detroit-Cleveland markets. Later in the 1960s, Associated Dairymen, Inc. was organized to cooperate in price enhancement strategies and explore merger feasibility in a huge portion of the Mississippi Valley and the Southwest.

Meanwhile, in individual fluid milk markets, federated combinations of milk marketing cooperatives were being organized for so-called “super-pooling” purposes. The Central Milk Producers Cooperative (CMPC) in Chicago and Central Valley Milk, Inc. in the Ohio Valley Federal Order are examples of such organizations.

In 1973, eight Northeast cooperatives formed the federated Regional Cooperative Marketing Agency, Inc. (RCMA) as a vehicle to obtain over-order prices. In September 1973, RCMA established over-order class I prices in New England Federal Order market and the Western New York State market. Due to inadequate representation in the New York-New Jersey market, an over-order price was never instituted in that area. RCMA pricing remained in effect during an eighteen-month period, from September 1973 to August 1975.

In the mid-1980s, as milk prices were once again in a period of decline, RCMA was restructured to provide direct membership for non-cooperative producers as well as dairy cooperatives. It was recognized that even if all dairy cooperatives in the Northeast acted together, they did not control enough of the milk supply to bargain effectively for higher prices. It was estimated that there were approximately 10,000 independent dairymen in the eleven northeastern states at that time. A massive membership drive was mounted to include these dairymen as RCMA members. RCMA was largely successful in achieving this sign-up and quickly sought to establish over-order class I prices. RCMA was able to collect class I premiums from most, but not all class I handlers. The association paid producer premiums for a period of 22 months beginning in September 1987 in the New York-New Jersey and New England Order markets and in the Western New York State Order area. Inequity in payment among handlers and other prob-

lems eventually resulted in the collapse of the RCMA premium in July 1989. However, competitive premiums continued to be paid on a plant-by-plant basis.

At the same time that RCMA was reorganizing in the Northeast, a group of cooperatives to the south formed the Middle Atlantic Cooperative Milk Marketing Agency (MACMMA) to operate in the region encompassing the Middle Atlantic Federal Milk Marketing Order. They represented nearly 85 percent of the milk volume in the market and began establishing class I over-order premiums in September 1987. MACMMA has continued to generate premiums since that time.

The purposes of these different organizations are (1) to reduce competition among the various dairy cooperatives in a market and (2) to operate a pooling process that permits all farmer members of the combination to share equally in the premium money that is being negotiated. Such combinations of milk marketing cooperatives essentially fit the definitions for marketing agencies-in-common and/or federations.

Federations, marketing agencies-in-common, or combinations of cooperatives are only as strong in terms of bargaining power as the proportion of milk they market in a region. In areas where there is a significant proportion of independent or non-member milk, the price objectives of cooperatives must be modified. Why this is so will be spelled out below.

### ***The Regional Bargaining Agency Approach***

Because independent milk can effectively undercut the premium price structure in a market, dairy cooperatives have attempted to address this issue. The obvious answer historically has been to attempt to sign independent milk producers into the membership of milk co-ops. But in some large fluid milk markets, including New York-New Jersey, Eastern Ohio-Western Pennsylvania, and parts of the Southeast, substantial numbers of grade A milk producers are “turned off” or not attracted to the idea of having a dairy cooperative serve as their marketing agent. Out of this environment was born the idea of *regional milk bargaining agencies*.

### ***Why Non-Members Aren't Members***

Regional milk bargaining agencies can only be as successful as their sign-up of independent milk producers (as well as existing dairy cooperatives) permits. In their promotion literature, regional agencies generally

have stated that at least 95 percent of the producer milk in the region must be under the direction of the agency.

The major problems confronting dairy leaders as they attempt to make a regional bargaining agency operational are (1) to sign up independent milk producers in the first place, and (2) maintain the membership of the producers beyond the one-year contractual commitment usually specified in the membership agreement.

If a regional bargaining agency approach is such an obvious answer to establishing higher prices for milk producers, then the question of WHY such agencies have difficulty in signing and holding membership must be addressed. The types of reasons identified here also fit the question of why some producers do not become members of existing dairy cooperatives.

#### 1. Apathy - Skepticism - Anti-Organization Attitudes

A sense of negativism or even hostility describe some dairy farmers in their view toward dairy cooperative organization. The sources of such attitudes vary, and may include such different reasons as disliking a field representative to a contested butterfat test to a dispute that one's grandfather had with the cooperative thirty-five years ago. The emergence of a regional milk bargaining agency does not necessarily change such attitudes.

#### 2. Cost of Membership

Many dairy cooperatives assess their membership directly or indirectly between 1-2 percent of the milk check to operate and build the cooperative. Independent milk producers are not subject to such assessments, and many non-members make their marketing decision on that basis. Regional milk bargaining agencies give great emphasis to the minimal amount of money required to bargain regionally, but some dairy farmers continue to be persuaded that joining such an organization will mean significant costs to them.

#### 3. Opposition by Fluid Processors

The reaction of fluid processors to the appearance of a regional bargaining agency varies widely. Some processors basically are indifferent so long as they are assured that their competitors are going to have to pay the same price they do. Other processors actively oppose the agency by assuring their producers that they will get a better pay price by not signing onto the

agency. Many independent producers have long-time loyalties to handlers who have treated them fairly and are inclined to stay with the handler as "their" market.

#### 4. Mysteries of Pooling

It is virtually impossible to persuade some dairy farmers that they can get even more money for their milk through cooperative action when they are already getting more money for their milk independently than do their co-op neighbors. Marketwide pooling in a situation where individual handler pooling can operate tends to confuse a lot of people.

An example may help. Suppose federal order market reports 200 million pounds of producer milk for the month, and class I utilization is 110 million pounds, or 55 percent. The regional bargaining agency markets 180 million pounds, but only one-half of its milk sales (50%) are utilized in class I. The other 20 million pounds of producer milk in the market is independent and is all purchased by one handler who operates at 100 percent class I utilization.

If we assume that the over-order premium established by the regional bargaining agency is \$1.50 per cwt. and is only on class I milk, the arithmetic shows us that the agency can pay out 75 cents per cwt. of premium money to members. The 75-cent payout is established because the agency pays members for all 180 million pounds of member milk, but it only collects \$1.50 per cwt. on the 90 million pounds utilization in class I products.

In this situation, the independent fluid processor voluntarily need not pay non-member dairy farmers a premium of more than 75 cents per cwt. in order to maintain an attractive or competitive price in the country. Because the independent fluid processor is 100 percent class I, this situation means that the processor can purchase milk at a 75-cent class I premium rather than the \$1.50 class I premium it would be subject to if it purchased from the cooperative. Furthermore, the 75 cents that the processor is not having to pay adds up to \$150,000 on the 20 million pounds of class I milk at the plant. The \$150,000 is money that could be paid to farmers when there is cooperation, but it will not reach farmers in the situation described. The \$150,000 is also a huge incentive for a high class I utilization handler to fight vigorously to maintain an independent milk supply. The pooling concept can get complicated. Those

independent milk producers that see the potential for gaining full premium prices on all milk are more likely to sign into a regional bargaining agency.

A couple of other points are worth noting from the example. First, the regional bargaining agency in the example had control of 90 percent of the milk in the market. Yet, the bargaining position was weakened because of the 10 percent independent milk outside of the agencies' control. Two implications of such a situation are (1) class I processors who buy milk from the agency will place major price depressing pressures on the agency because they will be paying \$1.50 premiums for class I milk while their competitor is paying only a 75-cent premium, and (2) it can be postulated that if all 200 million pounds of producer milk in the market was controlled by the agency, the class I premium could be higher, say \$2.00 rather than \$1.50. In such a case, all producers would receive a \$1.10 premium, and all handlers would be subject to the same class I price.

#### 5. Non-Excludable Benefits

Premium prices that organized milk producers are able to negotiate fall into a category called "non-excludable benefits." By definition, non-excludable benefits are programs or benefits that a cooperative generates for its members, at a cost to the cooperative, but these same benefits cannot be excluded from producers who are not members of the cooperative. Bargaining is a prime example. If a cooperative or agency is able to negotiate premium prices for its members, the buyers of independent milk will quickly match the higher prices in the milk checks they write. In effect, an independent dairy farmer can enjoy higher prices without contributing in any manner to the process of gaining those higher prices. Non-excludable benefits are an implicit invitation to independence. The huge challenge to dairy cooperatives is to develop strong programs of excludable benefits—guaranteed price/payment, strong field representative staff, economical group health insurance—or other such benefits that can be excluded from non-members.

#### *Prospects for Regional Bargaining Agencies*

A regional bargaining agency can only be as strong as its weakest link. The weakest link in dairy

farmer organization is the inclination of significant numbers of dairy farmers in some areas to market milk independently. The regional bargaining agency approach is an innovative idea intended to involve these producers in a region-wide bargaining program without pushing them into membership in existing cooperatives.

The qualified or uncertain commitment that independent milk producers may make to a regional bargaining agency, or their rejection of the bargaining agency approach in the first place, raises important questions about the longer term sustainability of the regional bargaining agency approach. Some fluid milk processors with high class I utilization will work vigorously in maintaining an independent milk supply. The problem of non-excludable benefits may continue to challenge the organized milk producer sector as independents will enjoy pay prices equal to or better than members of the cooperative/agency.

Two footnotes to the regional bargaining agency approach are worth noting. First, milk producers who are members of existing dairy cooperatives that have agency membership may question their cooperative membership. After all, in the view of a co-op member, it may make sense to drop out of the cooperative, no longer be faced with co-op costs, sign on as a member of the agency and only be faced with the minimal assessment of the agency. From a milk pricing standpoint, either route may be just as good.

Second and finally, regional bargaining agencies may be tempted to go to state legislatures for price relief when they are unable to gain sufficient producer sign-up to implement their own price plan; in fact, this has happened. In a sense, even if price relief is granted through a state milk order, the effort is an admission of organization failure because producers themselves have not supported the private/cooperative/agency approach to milk pricing. Furthermore, any price gains achieved through public action directly invite the non-excludable benefits problem because state authorized prices are made equally available to members and non-members.

Membership is the key to establishing a successful regional milk bargaining agency. Historically, membership has been the key to having a successful dairy marketing cooperative. Whether the agency approach can effectively address the membership issue continues to be an open question.