



## The Cost of Getting Along

BY RANDY STEVENSON, PRESIDENT



Civility is an important concept in the marketplace of ideas. But civility should never undermine conviction. When someone is convinced of his rightness, he should be civil about it, but he should never give up his convictions in order to get along with others.

***In the livestock market, honesty is of utmost importance.***

There have been some calls for both sides to just “get along” in the current debate over what to do about the livestock marketplace. The debate is itself a “marketplace of ideas.” Some calls for getting along go beyond mere civility to the idea of “unity.” Unity in the marketplace of ideas is a bit like monopoly in the livestock market. It should come as no surprise that those calling for unity are pretty much the same people who are satisfied with the monopolism, monopsonism, and vertical integration of the livestock markets.

We expect that some would object that the marketplace of ideas is a self-regulated market, as the livestock market should be. This is not the case. Even though free

speech is one of our fundamental founding principles, there are reasonable limits properly imposed on it by law and by custom. Slander, libel, and inciting to riot can bring about legal repercussions. In the livestock market, honesty is of utmost importance. Dishonesty in the market destroys its integrity, much like slander or gossip undermine the uprightness of free speech.

The very best way to impose honesty in the market is to require transparency. Lack of transparency invites dishonesty, and requires too much government to root it out. It just wouldn't work.

One way to help the livestock industry to all get along would be for those who want open, honest dealings to shut up and allow trading cattle and hogs to continue to go on in the dark. While giving in would

produce a unified voice-- it would muffle all who disagree with those few who wield market power against so many.

But honesty demands a voice. There is one path to unity in livestock production. Honesty is the path. Where people deal honestly, they deal in the open, not in the dark.<sup>RS</sup>

What's

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# It's Now or Never

BY FRED STOKES, EXECUTIVE DIRECTOR



Our crowd was a bit thin, but this year's OCM Conference had a powerful program. Our attendance of about a hundred was down somewhat from the St. Louis event last year. No doubt, the Ft. Collins DOJ/USDA workshop on livestock markets was a major factor. Many simply could not attend an event in Omaha and another in Fort Collins the same month. This is understandable. The object of both events was to address the threats to independent, family agriculture and I feel we made a lot of progress in that direction.

Every presentation at the OCM conference was outstanding; from the Update on market concentration to the concluding panel on the farm to retail gap. Most of the panelist manuscripts and Power Points will be posted on the OCM web site ([www.competitivemarkets.com](http://www.competitivemarkets.com)).

No doubt, our conference helped set the stage for the history-making Fort Collins Workshop seventeen days later. This event, with its 2000 or so in attendance (mostly white hat types), was a huge success from our point of view.

***"I don't know what the answers are, but I sure know there is a problem"***

— Attorney General Christine Varney

The battle lines were clearly drawn. The big packers, AMI, NCBA, NPPC, their captive producers and others in that camp contended that things were great and opposed any market reform, especially that proposed in the GIPSA Rules. Their basic message is that the system is working; don't mess with it! Producers and organizations representing their interests pointed to the

shrinking producer share of the food dollar, the loss of 1000 cattle producers each month and the decay in rural America and contended that help was needed; --- soon!

Perhaps the most profound statement at the Fort Collins event came from Assistant Attorney General Christine Varney, who said; **"I don't know what the answers are, but I sure know there is a problem"**. Denying the existence of a problem was the heart of the argument by opponents of the rules.

Some content that the cattle industry is in danger of being "chickenized". Others contend that since a cow costs much more than a chicken, the beef cattle industry cannot be vertically integrated. I say; four packers control more than 83% of the fed cattle market and they can simply demand a contract in exchange for market access, thereby imposing vertical integration.

**Unless one finds servitude appealing, they need to become involved in this struggle!**

I consider one of the most significant provisions of the proposed GIPSA Rule to be the one dealing with "competitive injury". The rule states in part;

*"In recent years, a number of U.S. circuit courts of appeals have not given deference to USDA's interpretation of sections 202(a) and (b) of the Act, consequently frustrating its enforcement capabilities. USDA has consistently held that under sections 202(a) or (b) of the Act, an unfair practice can be proven without proof of predatory intent, competitive injury, or likelihood of competitive injury. The court decisions*

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# Battle Over Proposed GIPSA Rules Akin To Range Wars of Late 1800's

BY ERIC NELSON

Last Friday in Fort Collins, Colorado at Colorado State University, the United States Departments of Justice and Agriculture hosted a workshop focusing on competition in the U.S. cattle industry. The modern day "cattle barons" present spoke of how the proposed rules would be devastating to "their" operations and it didn't take long to see that those in favor of the status quo used the words "I" and "me" when talking of what the rules meant to them.

With no crease in their jeans or starch in their shirts and wearing hats with sweat stains and boots with the look of recent hard work, those folks speaking in favor of the new rules spoke in terms of how the rules would benefit the entire cattle industry and society in general, rather than discussing their own personal wants and needs. The proponents of these rules spoke not with condescension, but rather with a demeanor that reflected their genuine concern for the long term future of the U. S. cattle business and American agriculture in general.

When one cattle baron reached the microphone, he introduced himself, then explained how large his cattle facilities are, how many cattle he fed and how

important he was and how much he thought of himself. Then he promptly verbally assaulted all of the government officials there by saying (paraphrase) that if terrorists had taken over USDA, they couldn't have put out a more damaging set of rules for his cattle business.

It was obvious that these proposed rules would hurt his business, much in the same way that the cattle barons of the 1880's & 90's were affected when government officials put a stop to the barons trying to run settlers off the land so they could continue their unabated "free range" grazing of huge cattle herds. The cattle barons of that era had a strangle hold on the cattle business as the cattle barons of today do. But the Federal government stopped the cattle barons in the late 1800's, allowing opportunity for the rest of the industry. The proposed GIPSA rules would do much the same today, decentralizing the U.S. cattle industry, allowing opportunity for the rest of a shrinking industry to make a living and provide a stable, safe food supply not only for U.S. consumers but also for the world. As we have seen in the egg industry in recent weeks, having a centralized food system with only a few producers is

risky policy. A centralized beef industry, located in a geography that lost its cost efficiency advantage years ago, is likewise poor policy. But the cattle barons of today have brought in "hired guns" to fight their fight, like was done in the range wars of the 1880's and 90's. Today these hired guns are lobbyists and lawyers armed with large sums of money to sway politicians into "shooting down" any policy that threatens their monopoly. Settlers and smaller producers relied on the government to protect them in earlier times and government action is needed now as well. One argument made by today's cattle barons was to demean the proposed rules as "old thinking" and "going backwards." There was a time, however, when studying successes or failures of the past and using that information to make decisions was called "wise." Thankfully, Secretary Vilsack and others in power apparently realize that there is still wisdom in studying the past and learning from it. This realization has come too late for the poultry industry and possibly for the the pork industry as well.

The irony in all of this: the actions being contemplated by USDA and being bastardized by today's cattle barons are already the law of the land and have been for three quarters of a century. Let's hope our current government officials will have the strength to simply enforce laws made by wise people in an earlier time.<sup>EN</sup>



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# Food Pyramid

BY RICHARD OSWALD

Back in ancient times the Pharaohs built the first pyramids on earth.

They did it on the back of the working man.

Egyptians believed Pharaoh's soul could be beamed to Heaven through a tunnel, or shaft built by workers who were eventually buried deep inside. If everything worked out a few loyal servants might get to come along on a sort of "work visa" to eternity.

Several thousand years later a different pharaoh named Bernie Madoff built another kind of pyramid... out of money... by convincing lots of people of much the same thing.

Consequently the working man is still getting the shaft while laboring eternally for the powers that be.

The higher we go, the fewer people there are left to take advantage of. That's why broad based pyramids get ever narrower toward the top. Pyramids have become symbols of building special interests from everything including sandstone blocks, to investment--and even meatpacking.

So pyramid schemes are nothing new, but no matter what the building material, construction always grinds to a halt when it comes to a certain point. Family livestock producers reached their peak several years ago when unchecked consolidation of meat packers and processors made them servants of a Ponzi scheme for animal protein.

First they took the buyers, then they stole the markets, and now they own

the growers.

Today, the best line in the 1989 movie "Field of Dreams", uttered by Iowa farmer Kevin Costner in response to baseball player Ray Liota's question "Is this heaven?" should be "Definitely not-- It belongs to Tyson ( and by the way if you don't have a work visa it's no big deal)."

In this new version Ray would then presumably spend the rest of eternity without a dust mask loading broiler chickens into crates for less than minimum wage.

Without fair prices, US livestock farmers are simply giving away labor and making short term sales of the long term equity they hold in their land and equipment. That's like rolling square rocks up hill.

Food pyramid number one was built in the US from poultry when integrators decided to produce their own eggs and chickens, using those supplies to limit marketing opportunities for farmers. In the 1950's, big privately owned chicken houses were the rule,



not the exception on a lot of diversified farms across parts of the Midwest where family farmsteads dotted the landscape.

When farmers lost direct access to fair markets for both eggs and chicken they lost profit incentive to produce. The reason this works is simple. It's pretty hard to be a seller without buyers, and when buyers can buy from themselves there really is no fair market at all.

Now consolidated poultry integrators control the business from yolk to feather, and the few farmers who continue to grow chickens are more like Egyptian slaves carrying back breaking loads rather than free and independent producers.

The next segment of diversified farming to fail at the hand of corporate Pharaohs was hogs.

Take a drive across central and southern Missouri where hogs used to graze oak timber looking for acorns, and what you see now are dilapidated, abandoned livestock buildings a quarter mile from brand new installations, proudly signed up a single word; "Cargill".

Self employed farmers will feed livestock for as long as the market feeds profits to them. When corporations figured out how to control profits by integrating all the operations of pork production as they did earlier with poultry, food pyramid number 2 soared to the heavens.



***Pyramids have become symbols of building special interests from everything including sandstone blocks, to investment--and even meatpacking.***



Now we're down to beef.

Cattle numbers here have been in



decline for years. They call it the cattle cycle, but cycles have ups and downs. This time it's a death spiral. A handful of big packers are now free to access beef from around the world to limit what US farmers and ranchers are paid. When on-the-hoof prices get higher than they want, in comes the packer owned beef from Mexico or Canada. Consumers never see a country of origin label or a price advantage because retailers and packers work hand in hand to capture and keep the margin.

Consumers never get a break and cowboys never get financial incentive to produce.

In spite of the fact that retail beef prices in the store remain strong, beef cow numbers in the US have started to fall just as hog and poultry numbers on farms decreased when big corporations took over those businesses. USDA now reports combined numbers of cattle and calves in both Canada and the US. Why? Reasons why might be more building blocks means a bigger pyramid, to conceal the fall in US cattle numbers, or it may just be that cattle inventories owned by the big packers like to hide across the border.

There's discussion about who's re-

ally to blame, the biggest packers, or retailers led by the biggest of the big, Wal-Mart? The fact of the matter is that retailers and packers work together to create problems for cattlemen. While hogs and poultry can be raised nose to nose and beak to beak in ever shrinking confinement cages, cattle require land either for pasture or forage production. For corporations the problem isn't how to control the cattle, its how to control the massive quantities of land needed for that production as well as the people who own it.

The surest way to get the land is to build a pyramid on it, to take away the profit away from it.

Telling meatpacker pharaohs they can't build pyramids won't seal them in a tomb like some folks say it will, but for American farmers it would be like a cruise down Langdon Bend on Cleopatra's barge, only better – because she'd be paddling along with the rest of us.<sup>RO</sup>

<http://www.dailyonder.com/letter-langdon-food-pyramid/2010/08/27/2910>

FRED STOKES (continued from page 2)

*that require proof of harm or likelihood of harm to competition in order to prove any violation of section 202(a) or (b) of the Act creates an unreasonable standard that may be difficult to meet."*

Several jury verdicts favoring producers as plaintiffs have been reversed by judges who ruled that the harmed party must first prove harm, or likely harm to competition. This is a travesty that hopefully will be put to rest by this rule making process.

Finally, I want to say something about the shocking revelation that NCBA, who opposes most everything OCM stands for, was found by an independent auditing firm to be misusing beef checkoff funds. The Cattlemen's Beef Board stated:

*"These findings are extremely troubling to the CBB Executive Committee. For this reason, CBB will begin a more comprehensive compliance review of NCBA for FY 2009 and FY 2010"*

While we are pleased that the Beef Board and perhaps the USDA AMS will conduct a more in-depth review of this matter, we strongly feel that a competent and comprehensive audit is called for. Accordingly, we are actively exploring legal action to bring this about.

We are at a critical moment in the pursuit of fair and competitive markets. If we are to succeed, everyone with an interest in a positive outcome needs to join us in this effort.<sup>FS</sup>



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**DAVID KRUSE**

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## REVIVAL OF HONOR - PART I

R-Calf CEO, Bill Bullard hoped 25,000 livestock producers would join him at Fort Collins for the Competition Workshop hosted by USDA/Department of Justice and just 1,000-1,500 attended. The rest must have been in the throng in Washington at Beck's honor rally. I think that in many ways, the hearings in Colorado were about revival of honor too.

For since I can remember, integrators and major packers have dominated USDA and key Congressional posts controlling enforcement of Packers and Stockyards regulations. The regulated essentially controlled the regulation, so

***What happens historically to regulation is that over a period of time, the regulated find ways around stationary rules like a river does some blockage of the channel.***

that meaningful enforcement was purposefully circumvented. USDA officials pushed through revolving doors as they traded jobs in the industry and government. I believe the time they spent in Washington carrying water for integrators/packers was rewarded in the private sector later for services previously rendered. What occurred may not have been criminal, but that was a technicality.

It was noted that 3 Congressmen are under

investigation by the Ethics Committee for links from campaign contributions to their vote on the Health Care Bill. Why is that different than the House Agriculture Sub-Committee Chairman, David Scott, who blasted APHIS rules in hearings, accepting, "\$10,000 from the National Chicken Council; \$7500 from the National Pork Producer's Council; \$3,500 from Pilgrim's Pride; \$2,500 each from Cargill and Tyson; \$1,500 from JBS, the largest meatpacker in the world; \$4,500 from the American Meat Institute and \$7,500 from the National Cattlemen's Beef Association (NCBA.)" The livestock integrators/packers own every move that key Congressman makes.

It was therefore, extremely ironic and reprehensible to hear integrators/packers charge the USDA is now biased against them. After so many years of them running the show, returning balance and honor to USDA regulation must seem like bias to them. The opposition to GIP-SA enforcement likes things as they were. Over the period of a few decades the poultry industry has integrated into just a few hands, eliminating market access for new players. Birds are now grown with their permission on their terms.

The pork industry has its producers subjugated by the packer control of market access too. Shackle space was the fulcrum that leveraged control of the industry to the point where 94% of hogs were produced under contract market terms the first half of this year. Pork product market reporting is still controlled by packers. Most hog producers are now employees of investors.

The Packers and Stockyards Act has been around forever from the life experience of those producing and processing livestock today. What happens historically to regulation is that over a period of time, the regulated find ways around stationary rules like a river does some blockage of the channel. The Packers and Stockyards Act has been circumvented by a dynamic evolving industry and concentration of players. Those

benefiting don't want change. It took them a long time to get things like they want them so any advantage that they have carved out for themselves they want to keep.

For regulation to be effective, it needs to be revisited during historical intervals and the interval since when the Packers & Stockyards rules were last given a tune up has been too long.

First of all, you have to know the players. Senator Chuck Grassley once described the NPPC and NCBA as "packer lackeys." Why would we need to call them anything else or expect anything different from them than what the AMI supports? The NPPC now defends their corporate partners like an abused child will defend his abusive mother, because they don't know how to function independently anymore. They climbed on the foxes back after being promised safety crossing the river. There was concern expressed that the new rules will cause pork packers to respond by owning more hogs, eliminating contract production but why would they own hogs when they own the producers? The rules will not be that onerous for packers to give that up.

*Beef Magazine* is to the packer lackeys what Fox News is to Republicans or to be politically balanced, like MSNBC is to Democrats. It is the media arm of those who, in this instance, like the status quo of who is in control of livestock industries today.

For some time now, they have run things at DOJ and USDA seeing to it the existing power structure was not challenged. Whether it was right or fair wasn't relevant. Those in control represent a political constituency that was protected by their influence over DOJ and USDA in a "you scratch my back, I'll scratch yours" kind of arrangement. I noted that the President tightened the rules as to what ties regulators can have or had to the oil industry because they were too close.

Same for USDA and NCBA/AMI/Packers. The breaking of these incestuous relationships has generated industry complaints. They will invest large sums into political contributions to

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elect officials that will bring them right back in control again.

As to the new proposed rules. . . most of them are directed at the integrated poultry industry and procurement contracts. In reading the rules pertaining to poultry contracts, I could not see how any reasonable person could find fault with them.

First of all, I'm an independent cattleman. I have no idea why anyone would raise chickens for integrators if half the stories about how they have been treated were true. Where do they find people who put up with that? Are we to believe that the poultry industry finds new suckers that haven't heard how they screwed the last suckers they're replacing to grow chickens? I don't know why anyone would work with these people, but it is the USDA's job to see to it that the abuse is kept to a minimum. I didn't see any proposal in the new rules that was unfair to poultry integrators but after you have had it your way for so long, the tilt of the playing field goes un-noticed as natural in favor of the integrators.

The response to rules from the poultry industry should have been, "Yeah, you got us, this is fair." One rule change in particular that stuck out to me was giving the producers the right to watch their chickens being weighed. Believe it or not, contracts denied them that right despite weights contributing to their compensation. Integrators fought this something terrible. One poultry producer broke the rules, followed the trucks and watched his birds sit in them for hours before being weighed.

My father in law, a cattleman, told me how years ago when sending his cattle to the Sioux City stockyards, if he couldn't be there, he would send his two teenage daughters to watch the scale manager to ensure he punched the scale ticket when the arrow was where it should be. We don't watch our cattle get weighed today; weights can be checked on a local scale, but producers should have the right to observe their livestock being weighed any time they desire. <sup>DK</sup>

(Revival of Honor ... To Be Continued ...)

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