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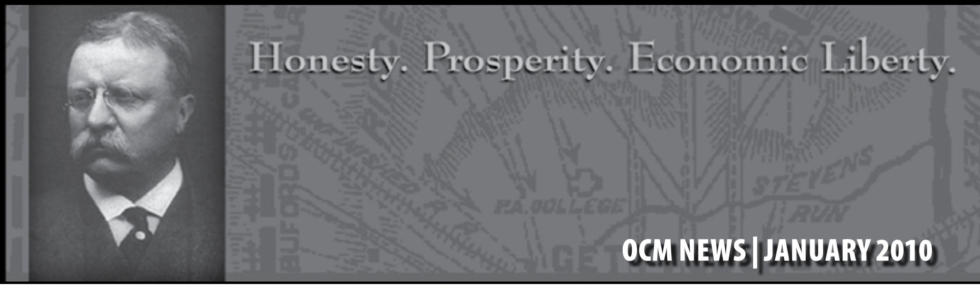

OCM NEWS | JANUARY 2010

Joint DOJ/USDA Workshops;

A PROMISING BEGINNING.

BY FRED STOKES, EXECUTIVE DIRECTOR

It appears that our government will finally act to confront the dysfunctional markets that have so devastated American agriculture. Assistant Attorney General Christine Varney, who heads the Antitrust Division of USDOJ, served notice shortly after assuming office that she intended to enforce the antitrust laws, especially those affecting agriculture. Her deputy, Phil Weiser, laid out the antitrust game plan in his address at the OCM Conference in St. Louis last August.

Among other initiatives, there are to be five joint DOJ/USDA workshops addressing market issues in agriculture. These unprecedented joint efforts include a March 12th meeting in Ankeny, Iowa on row crops, a May 21st session in Normal, Alabama dealing with contract poultry production, a dairy workshop in Madison, Wisconsin on June 7th , a livestock session in Fort Collins, Colorado on August 26th and finally a concluding event on margins (how the pie is being sliced) in Washington, DC on December 8th.

> "THE USDA ERS REPORTS THAT THE "FARMER'S" SHARE OF THE BEEF DOLLAR CURRENTLY IS A MERE 42%."

While these workshops are not a quick fix for the situation many farmers and ranchers are in, they are important. Market concentration and diminishing competition occurred over decades; reform will take some time. But we in OCM see these workshops as the beginning of a process that will ultimately help restore competition to the marketplace.

As a continuation of our Seed Concentration Project, we anticipate a follow-on meeting to the Ankeny, Iowa workshop.

Due to the existence of a near monopoly and aggressive anticompetitive practices in the transgenic seed industry, farmers are restricted in choice and have to pay too much for their seed. It is widely reported in the press that DOJ is conducting an investigation into this situation. Hopefully, the investigation will result in an enforcement action that will curb ongoing anticompetitive conduct.

OCM is also considering one or more pre-workshop meetings with a view toward promoting participation and increasing the effectiveness of the DOJ/USDA workshops. We are especially interested in a conference on beef production. While we understand the dire circumstances cow-calf and feedlot op-

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What's
INSIDE...

THE Stevenson REPORT

Market Liberty

BY RANDY STEVENSON
PRESIDENT

With regard to the problems in the cattle market, it is not enough to simply conclude that restricting captive supply or prohibiting packer ownership of cattle will immediately solve all the market problems involved. It is becoming ever more obvious that the issues are more broad than that, even when we are only looking at the cattle/beef sector.

Sometimes those who are expounding solutions or denying there are problems seem to be behaving more like the blind men in John Godfrey Saxe's poem *"The Blind Men and the Elephant."* Each blind man, upon touching a different part of the elephant, believed the elephant to look different than his fellow blind men did. Each had a piece of the truth, but none had the whole picture.

There are some comparisons we can make with Fiona Scott Morton's article entitled *"The Problems of Price Controls."*[1] When controlled prices are set too low, new entrants are discouraged, supplies diminish and profits are transferred from producers to consumers. When prices are set too high, oversupply looms as a problem, and profits are transferred from consumers to producers. In either case a multitude of resources is eaten up as "deadweight loss." Deadweight loss is activity, such as lobbying or other efforts, designed to re-establish the price at a different level or to overcome the fixed-price with other amenities.

Controlled prices, in terms of the effect on the market, does not mean that the prices are necessarily established at a rigidly fixed level by the government. Adam Smith helps us understand what controlled prices are by describing the opposite. In Wealth of Nations, he said, *"The market price of any particular commodity, though it may continue long above, can seldom continue long below its natural price. Whatever part of it was paid below the natural rate, the persons whose interest it affected would immediately feel the loss, and would immediately withdraw either so much land or so much labor, or so much stock, from being employed about it, that the quantity brought to market would soon be no more than sufficient to supply the …demand. Its market price, therefore, would soon rise to the natural price. This at least would be the case where there was perfect liberty."*

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Blue Moon

BY RICHARD OSWALD

Year in and year out, things here around Langdon stay pretty much the same. We still have death and taxes. The sun rises in the east and sets in the west, and the North Star is always perfectly positioned above the neighbor's barn. But on rare occasions the finer aspects of nature (and people) become a bit less predictable.

The year ended in Langdon the same way it did in the rest of North America, with a Blue Moon (2). (That's a full moon at both the beginning and the end of the month.) It was that kind of year from start to finish. We had a late spring, an unusually cool growing season, rainfall that was nearly double the normal amount, an earthquake (1), and a difficult harvest followed by blizzards throughout December--stuff that only happens once in a Blue Moon.

Mother Nature likes to keep us guessing down here on the farm. That's the way the Federal Government works too.

Once in a blue moon folks like me get to thinking that some of the out-of-whack things in America might somehow be getting better for our food -- and the people who raise it.

A few years back a lot of us were giving high fives when agriculture secretary Dan Glickman took the unusual step of allowing pork producers to decide whether or not to keep the pork check-off.

A majority of pork producers voted to repeal the producer funded check-off (a promotion tax on every hog sold) rather than continue funding an agenda of big pork. That's because packers and their best buddies had camouflaged themselves to look like producers instead of end-users.

Small producers were being sold down the river by big agribusiness. Grower contracts were harsh and difficult to enforce, farmers couldn't find reliable markets, and those who tried to compete on their own were giving up and leaving the farm in droves.

Glickman answered to the will of the people, approved the referendum, and when a vast majority of producers voted to end it, certified the results. The check-off tax was dead.

Unfortunately Glickman left town with the rest of the Clinton administration before the results of the referendum could be enacted. His Bush Administration successor Anne Veneman (3) set the election results aside (4) telling producers their voluntarily funded project had now become a mandatory federal tax.

With close contacts inside corporations like Calgene, Monsanto, and Pharmacia, Veneman was well connected. USDA likes to say they represent farmers and ranchers.

Then we get a Secretary who's all about big agribusiness.

For the most part we don't get to vote on taxes in America. We only get to vote on the people in Congress who establish them. On the other hand, the pork tax was voted in by the people who would pay it. Those are the same people who voted it down.

Sometimes the government just doesn't seem to hear us very well.

Thanks to USDA, US beef producers weren't allowed to certify their own beef as BSE (Mad Cow Disease) free. It seemed a reasonable request since we were losing business to BSE fears and reduced exports. But big agribusiness didn't want that, because it allowed small producers to take charge of a coveted retail market.

Even though US producers such as Creekstone Farms and Gateway Beef were going to test for BSE in every animal they sold, USDA said that only the government could test for BSE. (5) But the real source of BSE in beef wasn't cattle from the US, but in imports from Canada (6) or Great Britain.(10) Big agribusiness didn't want that to be accepted knowledge because products from Canada and elsewhere can be a cheap source of profit.

Before Americans could see the problem, USDA had to really look for BSE. That wasn't a popular mission in our hallowed halls of government, because a favorite trick of big corporate food is to lobby Congress and USDA for reduced safety standards, then brag to consumers that their own standards exceed those at USDA.

Now a group of US cattle

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David Kruse
President, ComStock Investments

Half of Americans think that the government is doing too much and the other half thinks the government should be doing more to solve the problems of the day. No doubt that government became much more pervasive in the financial affairs of the country but has done so because the private sector failed and threatened to tank the economy prompting intervention.

The government didn't set the fire. The public animosity that appears to exist toward the Federal government seems to believe that it did. One could argue that it could have done more towards fire prevention but that is exactly the kind of government intervention that anti-government ideologues don't like. They don't want regulation, yet they don't want the government cleaning up the mess that deregulation caused. It was that deregulation coupled with accommodating monetary policy that produced the housing bubble that resulted in the sub-prime mortgage fiasco.

Theodore Roosevelt believed in government policing business and finances. He believed that the human nature of greed and personal self-interest needed to be buffered by a government working on the behalf of the people. The specter of a colossal global economic collapse doesn't appear to impress many ideologues who oppose all government intervention despite the destruction caused. They appear to underestimate the difficulty of putting Humpty Dumpty back together if allowed to smash in a complete fall.

The U.S. Treasury and Fed make great backstops for criticism. Systemic risk occurs when the losses resulting from the greed of leaders of finance and excesses of failed speculation fall upon the general public. Banks were de-regulated so that they could invest in mortgage securities and what did they do? They financed a huge speculative bubble, betting depositors' money on securities that if profitable, paid them enormous bonuses.

If given another opportunity, will banks do better? Not a chance. The names and speculation will evolve but they will make the same mistakes over and over because they can. If only they suffered from the financial fallout they create, few would care but they take the whole system down injuring innocent bystanders with the collateral damage of the boom and bust cycle they fuel. In other words, unregulated capitalization doesn't work. Those critical of the government screwing up everything should take note that the economic calamity produced today came about from massive losses from excesses in the private sector.

Government involvement is necessary because of failures of the private sector. The result can be one of two things. Government makes it better or government makes it worse. Ideologues that oppose regulation and government involvement in fire prevention also opposed sending the government's fire truck to put out the fires despite the threat of them engulfing the economy in an inferno.

The economic recovery of 2009 was the best recovery $2 trillion in a myriad of government incentives and bailouts could buy. Dissected into all its many parts, many bailouts were wasteful, ineffective and rewarded fiscal irresponsibility. Yet without the government intervention, we would have surely suffered a global economic collapse that would have made the "Great Depression" look like child's play. The alternative was a global meltdown and economic, political and social chaos. The government intervention may have only delayed the inevitable.

The story isn't over yet. There will be plenty of opportunity for financial calamity to befall us. The debt accumulated is gargantuan. The liquidity infused by the Fed into the financial system is enormous and the risk as Congress tackles the re-regulation of the financial system looms threatening. Harvard economist Kenneth Rogoff, an expert on financial crisis noted the concern, "Even if the government withdraws, business will expect bailouts in the next crisis, and that will inspire another round of cavalier risk-taking. If we don't re-regulate the banking system properly, we'll either get very slow growth from overregulation, or another financial crisis in just 10 to 15 years."

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Today, while most Americans are split over whether government is doing too much or too little, there is a consensus that the country is on the wrong track. Government is not replacing the private sector despite the crisis intervention and I don't believe the government will supplant the private sector in the future. However, without government intervention now, the private sector was incapable of sustaining itself without the government support it received. The private sector ran the economy off the tracks but no one wants to see the government run the railroad.

The private sector fiasco was of such colossal size and scale the government rescue had to be of comparable size in order to be effective. Many vent misplaced anger at the government but too much government didn't cause the accident, unless you blame the government for dereliction of duty policing capitalism. President Obama has been handed the most complicated set of weighing problems ever thrust upon a U.S. Chief Executive. Ideology won't solve any of the problems faced. It just makes solutions more difficult.

2009 ended much better than most thought possible early in the year. 2010 will be an unpredictable year.[DK]

DISCLAIMER: The opinions of the author are his own and are not intended to imply the organizations position on this or any other issue. OCM has membership with diverse viewpoints on all issues. OCM is committed to one and only one principal; competition.

STOKES (continued from page 1)

erations are currently in, the focus of the meeting would be on solutions.

The beef cow herd and feedlots are clearly going through a painful drawdown. Feedlots have lots of empty pens and cow-calf operations are rapidly disappearing. The cow-calf operation is where everything starts. Over the years, very little attention has been paid to this ailing goose that lays golden eggs for the other players. The U.S. beef-breeding herd on July 1 of last year was the smallest since the government started collecting data in 1971, according to USDA. Grazing lands, formerly populated with brood cows are being planted in more profitable row crops and pine trees.

Irrespective of depressed prices to producers, retail beef prices are high and projected to get even higher, this while the producer's share of the retail beef dollar gets ever smaller. The USDA ERS reports that the "farmer's" share of the beef dollar currently is a mere 42%. This is appalling when one considers that the typical fed steer or heifer is some 15-18 months at slaughter and that the several owners of that animal over its life cycle collectively get only 42% of its ultimate value. Put another way, during the less than two week period after slaughter, the processor, and retailer extracts 58% of the total value for their relatively minimal role in the production/delivery process.

Most analysts see a significant increase in meat prices during 2010. The pertinent question is whether producers will share in the increased prices. Hopefully, the DC workshop on margins will shine a bright light on this situation and prompt action to promote better competition and a more equitable distribution of the food dollar.

American agriculture is in trouble. Farmers and ranchers are being squeezed out of business by having to pay too much for their inputs and getting too little for their production. These workshops are not the total solution to this situation. But, we see this joint effort at market reform by USDA and DOJ as a significant and historic beginning. We are going to be supportive in every way possible and urge you to join with us in this effort.[FS]

STEVENSON (continued from page 2)

The key to understanding price controls is to understand that price controls may be considered to exist, in terms of their effects, whenever there is not perfect liberty for the market price to adjust to the natural price. We should conclude that price controls can come into the market in the form of government decrees or by market manipulations on the part of the market participants. The effects will be identical.

In the cattle/beef industry, three particular places in the market are points of suspect manipulation. One is the retail price level. Among the largest retailers, with so few market participants, tacit collusion would be very easy. If mega-retailers set the retail prices too high, it will stifle demand, sending a signal to producers that they have oversupplied and production needs to be cut back.[2] This is the observed situation we see now.[3]

The second place of suspect manipulation is the wholesale beef trade. Big retailers like to have fixed prices for the purported benefit of their customers. Therefore, they have pressured many beef processors into long-term fixed-price contracts.[4] Such fixed-price contracts, especially in the large quantities typically involved, do not provide the perfect liberty necessary for the market price to adjust to the natural price. Since the retailers typically wield more power than the processors, these fixed-price agreements would likely be below the natural price.

The third place that manipulation can be suspected is at the slaughter purchase level. If the first two suspected manipulations are true, then the processor would soon be put out of business unless he can find a way to manipulate the market he purchases in. In fact, over the long term, the only processors who would survive would be those who learned how to manipulate their purchases well. The "meet the competition" defense used by Tyson in *Picket v. Tyson Fresh Meats, Inc.* uderscores this statement. Tyson justified its market manipulative behavior by asserting that it was compelled to do the same things its competition did in order to compete. Both the trial court and the Appeals Court legitimized the argument, leaving us with a situation that virtually guarantees that only the manipulators will survive.

If these contentions are true, then we have one manipulated price, at the retail level, that is stifling demand, and another manipulated price, at the slaughter level, that is a signal to reduce the supply. These combine to create an unnatural market situation.The effect would be the end of the price cycle. This has been true in the hog market for quite some time, and many are puzzling over what has happened to the cattle cycle. The simple answer is that price controls have destroyed it, even though those price controls have not been imposed by the government. If these things are true, then the historical expectation of the cycle "bottoming out" cannot be relied on. The only realistic expectation we can have is that there will be a persistent and continuing economic signal to the cowboy to keep on reducing his herd size. That signal will not end until the manipulation ends.

It should be noted that the natural price that Smith mentioned relates well with what more modern economists call "price discovery." In that case we would paraphrase Smith by saying that true price discovery does not take place without perfect liberty. Perfect liberty is not the same as "voluntary." When I was a kid growing up in an extremely rural setting, we could get only one television station. I could "voluntarily" watch the CBS news with Dan Rather, or I could watch nothing. At my house, there was no competition for my viewing time. I was left with a "take it or leave it" choice that perfectly illustrates market power. Now that I have satellite television, the networks can "discover" my demand for watching their programs where my previous voluntary watching with only one choice did not provide that information.

Nearly all of us know the defects of government price controls. We should also recognize that manipulated markets can create the same effects for much the same reasons. We are observing those things now. We also need to avoid the errors of the blind men and look carefully at the market as a whole. We may find problems with market manipulation in one segment, and rectify the problem, but if another is also manipulated, then our proposed solutions won't work. We need to get it right.

In the words of Fiona Scott Morton, *"A market failure, such as lack of entry, can be mitigated with the right price control, at least in theory. The difficulty lies in the execution. Typically, no entity is well informed enough to be able to exactly identify the imperfection, choose the correct price to rectify the situation, and then provide ongoing adjustment and enforcement. Competition is a better tool than price controls for protecting consumers."*[5] RS

1 Scott Morton, Fiona (2001) "The Problems of Price Controls" Regulation: 24(1) 50-54. Available at http://www.cato.org/pubs/regulation/regv24n1/morton.pdf

2 Most cattle market pundits look soley to wholesale demand and operate under the assumption that the wholesale to retail market is not broken. The forces of supply and demand continue to operate in a manipulated market. However, a manipulated market's signals to produce or to cut back are distorted by the manipulation.

3 The extended liquidation phase that we have experienced has resulted in unprecedented numbers of feedlots empty and/or for sale.

4 A decade ago much talk circulated about the fact that major retailers wanted to price their beef just once or, at most, twice a year. This situation was used by some to rationalize the necessity for strategic alliances between feeders and packers.

5 op cit

This article was submitted by Randy Stevenson for the January 2010 newsletter of the Organization for Competitive Markets.

OSWALD (continued from page 3)

producers (14) is asking USDA not to implement a rule at the behest of big packers, allowing cattle from Canada born after March 1, 1999 to be imported into the US.

Almost any old cow in Canada could qualify. Cows from Canada are BSE 'Typhoid Marys'.

See what I mean?

Once in a blue moon things change, in this case a new Administration that ran on a platform of change. Things are definitely looking up. But in the realm of human endeavor, change can be easier said than done. When Mother Nature wants modification to the status quo she lets the chips fall where they may. When man alters things he sometimes seeks a consensus of major players like titans of industry, bankers, ranking politicians, and the wealthy. They all want to be in the room together.

Guys like me are generally on the outside looking in, supplying at cost the pure basic commodities big business adulterates for profit. (12)

That brings us to the National Animal Identification System also known as NAIS. (7) Grassroots producers (8) fought against mandatory animal ID throughout most of the Bush years. When President Obama was elected there was celebration by farm groups because NAIS was finally dead. Or was it?

The biggest problem with NAIS was that it ignored the chief problem of food safety by making small family farm agriculture subservient to big agribusiness. (A farmer with 50 cows and calves on pasture would have to tag and report 100 times, but a feeder packer with a dozen 10,000 hog confinement buildings only reports 12.) All that information was to be stored in a privately operated database outside USDA with only "insiders" having access to the records.

Even though virtually all food safety and pollution problems stem from concentration, imperfect processing, and imported animals and food products… like beef scraps from Uruguay…our government was saying we were mostly to blame by making us adhere to a higher standard than the real offenders. Animal ID was just a way for corporations to shift the blame for their mistakes to farmers who had no control over what happened once animals left the farm.

Producers geared up to fight NAIS the best they could by attending USDA listening sessions to testify against animal ID. (11) Even when testimony given was overwhelmingly against it, USDA continued to move ahead with plans for implementation until some in Congress like Senator Jon Tester of Montana were successful in cutting funding to the program.(9)

If money is the source of all evil, we definitely pulled NAIS up by the roots.

Today, even with funding summarily cut, NAIS is still being talked about by government and corporate insiders as they wait for the one in a million chance to revive it.

I've heard that as our nation grows, we must all be willing to give up some of our rights for the good of all. I would agree that's true when it comes to traffic lights or airport screening…but food?

These days it's not too unusual for seed companies to sue each other. (13) Lately a single seed company has gotten big enough to name its own terms in nearly 98% of the soybean seed market and 79% of corn. The last time a single entity controlled that much seed was when Adam walked alone in the Garden.

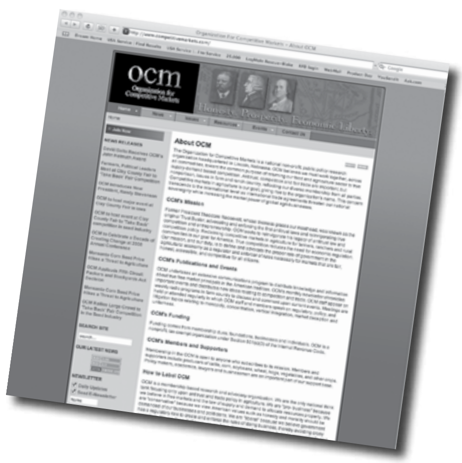
Monsanto says they need single handed control and big profits to enable farmers to feed the hungry. Some farmers reply that all we really need to do our job is freedom of choice without fear of economic retribution. In a rare and uncommon turn of events, the Department of Justice has decided to investigate concentration in seed markets.

Assuming Department of Justice and regulators go through with it, the last time the US cracked down on this much corporate power was when Teddy Roosevelt played trustbuster 100 years back.

That was many moons ago.

It used to be that rulemaking took place in the light of day. For Americans, sightless regulators blinded by power have been a big problem in agriculture, banking, Wall Street, the futures markets, healthcare, energy…you name it.

But once in awhile like now, if the problem is big enough, a little light from a Blue Moon is all it takes to start setting things right.[RO]



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January 2010

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