



September 20, 2017

Secretary of Agriculture Sonny Perdue  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Re: Lack of transparency, accountability, and the conflict of interest within the commodity Research & Promotion (checkoff) programs

Dear Secretary Purdue,

The Organization for Competitive (OCM) markets requests a meeting with you to discuss and highlight abuses within the commodity Research & Promotion (checkoff) programs which have occurred during the previous administrations.

OCM, working with other organizations, has uncovered the most recent issue within the dairy checkoff program. According to federal law (7 US CODE §4514), the program is required to submit an annual report to Congress outlining the expenditures, activities, and effectiveness of the program. This report has not been drafted nor filed for five years, keeping dairy producers in the dark about how their hundreds of millions of tax dollars have been spent over this time period.<sup>1</sup>

This is just one example of the lack of transparency and accountability of the checkoff programs. On an annual basis, checkoff programs collect nearly \$750,000,000 in taxes from farmers and ranchers and yet the government - their government - fails to provide the basic safeguards for these tax dollars as it does for other taxes collected.

For over five years, OCM has requested USDA documents related to a 2012 USDA audit of the Beef Checkoff Program be released to the taxpayers. Unfortunately, USDA refused to do so, leaving OCM with no other option but to bring a FOIA complaint in an effort to force transparency. The FOIA complaint was filed in November 2014, and it's been three years and counting simply to get to the truth of how the beef checkoff dollars are being spent.<sup>2</sup>

It is important to note that these mandatory checkoff fees are collected by agencies of the USDA and are the responsibility of the Agricultural Marketing Service (AMS) to oversee as clearly outlined on AMS's own website: "AMS provides oversight, ensuring fiscal responsibility, program efficiency, and fair treatment of participating stakeholders."<sup>3</sup>

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<sup>1</sup> See POLITICO: Missing USDA dairy checkoff reports renew calls for transparency: <http://competitivemarkets.com/politico-missing-usda-dairy-checkoff-reports-renew-calls-for-transparency/>

<sup>2</sup> See <http://competitivemarkets.com/ocm-foia-claim-regarding-beef-checkoff-program/>

<sup>3</sup> See <https://www.ams.usda.gov/rules-regulations/research-promotion>

Further, checkoff funds are not producer funds, but are government funds derived from farmers and ranchers paying a mandatory fee to the government. This fact is set out in the case of *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 562 (2005).<sup>4</sup> In this case, the U.S. Supreme Court agreed with USDA that operations and messaging of the checkoff programs, in this case the beef checkoff, were *government speech*. The U.S. Supreme Court made this decision only because USDA's level of government control and accountability goes to every word of every promotion. This case clearly establishes that these programs are government programs and it is the USDA which has the responsibility to ensure the checkoff programs are accountable, transparent and without conflicts of interest.

Yet, the previous administration failed to do so.

Mr. Secretary, OCM and the family farmers and ranchers who pay into these government programs respectfully request a meeting with you. We believe you have a unique opportunity. It was the previous administration that failed the farmers and you now have a chance to make these programs work for those who are paying these taxes.

Because it is now reported you are considering turning over the administration of GIPSA to the same agency, AMS, that has so grossly failed to do their job to adequately administer the Research & Promotion programs, we request your immediate attention to this issue and our request for a meeting. Further, we request you delay your final decision to move the administration of GIPSA to AMS until the conclusion of this meeting. This will allow America's family farmers, ranchers and dairy producers a chance to be heard.

Sincerely,

Mike Weaver  
President  
Organization for Competitive Markets

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<sup>4</sup> See <http://competitivemarkets.com/courts-findings-that-checkoff-activities-and-speech-are-those-of-the-federal-government/>