Confronting the Issues

Consolidation in the Dairy Industry
PFB Policy Development
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Issue

The dairy industry has changed significantly over time. One of the major changes has been consolidation throughout the entire industry including dairy farms, processors and retailers, along with dairy cooperatives. Consolidation in the dairy industry far exceeds the pace of consolidation in most of U.S. agriculture sectors. This paper explores consolidation among dairy farms and cooperatives.

Questions

1. Is current policy addressing monopolies and consolidation sufficient? If not, what is missing or needs to be changed?
2. Does Farm Bureau need specific policy related to consolidation of the dairy industry and/or dairy farms? If so, what should it say? How do you craft the policy to reflect a focus on public policy rather than private industry?

Background

Since 2003, the U.S. has lost more than half of its licensed dairy operations. A report from USDA in February 2020 showed the largest annual decline in the number of dairy operations since 2004, and Pennsylvania lost the most dairy farms in the Northeast. Nationally, the total milk cow inventory at the end of 2020 was the highest since 1995. However, AFBF economists have said that herd expansion is likely to stop this year, and cow inventory could potentially decline. Even as the number of dairy farms continue to shrink, milk production continues to increase with milk production per cow increasing 11.5 percent since 2011. In fact, USDA predicts that the daily output per cow will increase nearly 1.7 percent in 2021, which, if realized, would be the highest rate of growth since 2014.[1]

A 2020 ERS report[2] stated that production in all states is trending toward larger operations, though the decline of small dairy farmers is concentrated in the Midwest and Northeast. In fact, in 1987, half of all milk cows in the U.S. were in herds of 80 or fewer, and half in herds of 80 or more. By 2017, the midpoint was 1,300 cows, and nearly 2,000 farms had herds of at least 1,000 milk cows, with these farms milking over half of U.S. cows. Compare this to 25 years earlier when there were only 500 farms milking at least 1,000, totaling less than 10 percent of milk cows.

Consolidation is also happening in the processing side of the industry as well. There[3] were 1,244 dairy cooperatives in the U.S. in 1964, and 118 in 2017. This has led to a greater concentration in the industry – or a fewer number of firms controlling shares or purchases in a given market. In 2017, the four largest dairy cooperatives marketed just over 41 percent of all milk marketed by U.S. producers. As they have consolidated, dairy cooperatives have also diversified to invest in processing facilities. As of 2017, cooperatives owned and operated 198 dairy processing facilities (15 percent) in the U.S.

According to a report from the U.S. Government Accountability Office (GAO)[4], consolidation of dairy cooperatives and investment in processing can create competing interests and power imbalances among farmers. For example, as dairy cooperatives consolidate and incorporate farmers across multiple regions, membership may become increasingly diverse (farm size, type of operation, etc.) and farmers may have different needs and expectations, which could lead to a feeling of a loss of control. Another example is while some cooperatives maintain a "one member, one vote" philosophy, others may base voting rights to member productively (i.e. higher vs. smaller milk volumes). Additionally, while cooperatives seeking to diversify can realize higher earnings for farmers in the long-term, in the short-term they may see lower earnings. The GAO report also stated that cooperative investment in processing may also restrict access to the processing facility, impacting non-member producers who may lose or not have access to the market.

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[1] Data sourced from AFBF Market Intel, February 2021, USDA Report: U.S. Dairy Farm Numbers Continue to Decline: https://www.fb.org/market-intel/usda-report-u.s.-dairy-farm-numbers-continue-to-decline

[2] Data sourced from: USDA ERS Report, July 2020, Consolidation in U.S. Dairy Farming: https://www.ers.usda.gov/publications/pub-details/?pubid=98900

[3] All data in this paragraph is sourced from: U.S. Government Accountability report, September 2019, Dairy Cooperatives: Potential Implications of Consolidation and Investments in Dairy Processing for Farmers https://www.gao.gov/assets/710/701795.pdf

[4] See footnote 3.

Why is consolidation happening? On the farm side, an aging farmer population may be leading to some of the exits, especially if there is no one from the next generation willing to continue dairying. In addition, a challenging dairy marketplace (price volatility, natural disasters, COVID, and more) is also likely to have contributed to exiting dairies. Furthermore, while farms of all sizes can be profitable, herd size often plays a large role in costs, returns and efficiency. Certain parts of the country benefit from lower land prices, larger land parcels, lower costs (or increased efficiencies) to purchase or produce inputs, which makes having a larger dairy herd more efficient. Larger dairy farms also allow for a better work-life balance by sharing labor with employees[5]. And, as a result, we've seen production shift to Western states with California and Wisconsin producing nearly 33 percent of U.S. milk production in 2018. On the processing side, larger companies/cooperatives, especially those who have diversified, can often maximize profits, particularly in the long term and create better markets for their members. However, this also comes with risk, as we've seen when processors and cooperatives declare bankruptcy, often creating uncertainty for producers who may find it challenging to find new markets.

On the public policy side, there have been attempts to strengthen the dairy safety net for farmers, though not all farmers choose to participate in the federal dairy safety net (Dairy Margin Coverage, LGM-Dairy, Dairy-RP, etc.) Over the last two farm bills, along with some tweaks and additions in between, Congress has adjusted and expanded support for dairy farms, with additional emphasis on smaller operations. On the regulatory side, except for the 2018 farm bill, the Federal Milk Marketing Order program has not undergone substantial changes in almost two decades. It is looking increasingly likely that there will be an effort to make changes to the FMMO through a hearing process, and before then, Farm Bureau hopes to see legislation pass to allow for Modified Bloc Voting, which would allow all farmers, including all cooperative members, the opportunity to vote individually and confidentially as part of the FMMO process.

As a final note, USDA has primary federal oversight related to the dairy industry and the FMMO. USDA qualifies cooperatives to be able to participate in the FMMO program. USDA also has the ability to notify the Department of Justice's antitrust division, which is responsible for investigating and enforcing federal antitrust laws.

Farm Bureau Policy

In addition to below, see also, AFBF: 148 / Cooperatives, pgs. 27-28; 238 / National Dairy Program, pgs. 68-71; and 239 / National Farm Policy, *Farm Bill Principles*, Dairy, pgs. 73-74.

AFBF, 421 / Monopoly, pg. 151

1. Monopoly power is a threat to our competitive enterprise system and the individual freedom of every American.
2. Consolidation and the subsequent concentration within the U.S. agricultural sector is having adverse economic impacts on farmers and ranchers. Congress should review existing statutes, develop legislation where necessary and strengthen enforcement activities to ensure proposed agribusiness mergers and vertical integration arrangements do not hamper producers' access to inputs, markets and transportation.
3. We recommend the federal government look into the monopolistic practices of importers and domestic companies formulating fertilizer and nitrogen products.
4. The following changes should be made to further protect the sellers of commodities from anti-competitive behavior:
    4.1. Department of Justice (DOJ) should ensure that proposed cooperative and/or vertical integration arrangements continue to maintain independent producers' access to markets;
    4.2. USDA should be given authority to review and provide recommendations to DOJ on agribusiness mergers and acquisitions;
    4.3. USDA should be empowered to investigate mergers, consolidation or concentration of agricultural input suppliers, processors and retailers for antitrust or anti-competitive activities;
    4.4. DOJ should investigate competitive markets and price discovery when purchasers of agricultural products and providers of resources to agricultural producers secure a 25 percent (or greater) share of its markets;
    4.5. DOJ should have broader regulatory authority to include regulation of anti-competitive monopsonistic business behavior to protect agricultural producers as well as consumers;
    4.6. Producers impacted by unfair marketing practices should be compensated when harmed by monopolistic practice;
    4.7. USDA and DOJ should jointly provide clarification of farmer cooperatives' rights to encourage the development of cooperatives and producer bargaining associations;
    4.8. USDA oversight of the Packers and Stockyards Act should be enhanced. Specifically, Grain Inspection Packers and Stockyard Administration (GIPSA) investigations need to include more legal expertise within USDA to enhance their anti-competitive analysis on mergers;
    4.9. DOJ, GIPSA and other appropriate agencies should investigate any anti-competitive implications agribusiness mergers and/or acquisitions may cause. These investigations should consider regional monopolistic powers and abuses; and
    4.10. Individuals and companies who attempt to control commodity prices and agricultural production in violation of antitrust and monopoly laws should be swiftly prosecuted.
5. The continued use and expansion of production contracts is appropriate as long as producers have equal input in the process of negotiating the contract and companies owning critical genetics do not obtain too much market power.
6. We oppose non-compete clauses between equipment dealerships which do not allow competitive pricing between regions, thus creating a monopoly in the equipment market.

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[5] Wisconsin Public Radio, July 202, USDA Report Describes Fast-Paced Consolidation in the Dairy Industry, Centered in the Midwest: https://www.wpr.org/usda-report-describes-fast-paced-consolidation-dairy-industry-centered-midwest