

Summaries of Several Studies
Concerning State Milk Control

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INTRODUCTION

Seventeen states 1/ regulated milk prices in some respect during 1954 under authority granted by their respective Milk Control Laws. Hearings on proposals for an Ohio Milk Control Law are being held for interested parties.

The purpose of this report is to point out some of the information which is available and pertinent in this area so that all parties can be better informed when it becomes necessary to render a decision.

In addition to the summaries included in the following pages of this report, The Dairy Situation 2/ issue number 242, dated April 16, 1954 included a section on the "Role of Governments in Pricing Fluid Milk in the United States." This article reviews both federal orders and state milk control laws on pages 21 through 44.

The summaries included in this report are not the only studies available but represent a few of the more recent publications.

One important recent study, not summarized in this report because of its length, is "Milk Control Programs of the Northeastern States" 3/ by Leland Spencer and S. Kent Christensen. Copies and summaries of this publication may be obtained by writing Leland Spencer.

A section of the report issued to the Ohio Farm Bureau Federation by Drs. Pierce and Butz of Pennsylvania State College deals with the Scope and Function of Selected State Milk Control Agencies. This report, entitled, Economic Considerations of the Market Milk Situation in Ohio, is available from the office of the Ohio Farm Bureau Federation, Columbus, Ohio.

If anyone reading this report desires the complete bulletins from which these summaries are taken, they should obtain them directly from the respective institutions.

1/ Oregon discontinued milk control in November 1954, thus only 16 remained at years end.

2/ The Dairy Situation is published by Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.

3/ Milk Control Programs of the Northeastern States, Northeast Regional Publication #21, Bulletin 908, Cornell University Agricultural Experiment Station, Ithaca, New York, November 1954.

The following is a summary of "Distributor Knowledge And Opinion Of State Milk Control In Pennsylvania," published by the Department of Agricultural Economics and Rural Sociology, The Pennsylvania State College, State College, Pennsylvania in February, 1953. It is from a study at Pennsylvania State College.

"Operation of a milk distribution business within Pennsylvania presupposes a limited amount of knowledge about State milk control inasmuch as a dealer must be familiar with certain control regulations in order to maintain a license. This study was undertaken to provide some indication of dealer knowledge of milk control and also to determine how dealers feel about existing practices of milk control.

Dealers evidenced a rather broad knowledge of the mechanics involved in the State's milk control program. They were generally well-informed regarding the Commission's designation of the marketing area in which they operated, the time and place of price-hearings, and the legal counsel representing their group at hearings. Most dealers relied upon legal counsel and upon organization delegates for adequate representation at price-hearings.

Dealer reaction to the concept of milk control was generally favorable with only nine per cent of the dealers expressing unfavorable opinions. The particular functions of the Milk Control Commission which met with least approval were regulation of trade practices, requiring dealers to furnish bonds, and establishing minimum resale prices.

Distributors in general felt that costs were and should be the principal element in the Commission's price-setting deliberations. Dealer support was somewhat greater, however, for using distribution costs in establishing resale prices than for using production costs in setting producer prices.

More than one-half of the 87 dealers contacted felt that their interests were adequately represented under the present procedures followed in setting producer and resale prices. Dealer representation on the Commission and special meetings with the Commission were mentioned frequently by the 25 dealers who believed their group should have greater representation.

Dealers expressed decided opposition to nearly all suggestions designed to increase the regulatory powers of the Milk Control Commission. Proposals to invest the Commission with the powers to regulate the number of distributors in a market area or to establish and enforce production standards upon producers were strongly opposed by dealers. Distributors were about equally divided on their opinions toward extending the Commission's powers to include mandatory maximum pricing.

The general consensus among dealers was that State milk control had helped the dairy industry. Dealers believed that benefits had been derived primarily from the Commission's power to establish minimum producer and resale prices, and a considerable number of distributors thought that the Commission's responsibilities in maintaining an "orderly marketing" of milk had been advantageous to dealers. Disadvantages of control were stated by only a small proportion of the total number of dealers interviewed, with criticism leveled primarily at the Commission's enforcement program.

The study achieved only limited success in attempting to uncover those elements which were most influential in formulating dealer opinion about milk control. None of the factors analyzed produced statistically significant relationships between the opposed and unopposed groups. However, two elements--present position in business and dealer opinion of profit situation--appeared to be more important than others in shaping opinions toward milk control.

More than three-fourths of all distributors interviewed approved of seasonal pricing as a means of smoothing out variations in milk production between seasons. Dealers preferred a seasonal pricing plan built around variation of the Class I price rather than the Fall bonus or "Spring-Fall deposit-withdrawal" plans.

The following is a summary of "Producer Knowledge and Opinion of State Milk Control in Pennsylvania," Published by the Department of Agricultural Economics and Rural Sociology, The Pennsylvania State College, State College, Pennsylvania.

Dairy farmers in Pennsylvania have been operating under milk control since the mid-thirties. From this background of experience, this study attempted to find out what producers know about regulatory measures and how they feel about milk control.

Approximately one-half, 52 per cent, of the 1, 121 producers interviewed knew that a governmental agency established milk prices. Comparatively large numbers of producers believed that dealers or producers' cooperatives had the responsibility of setting milk prices, and one-sixth stated frankly they did not know how prices were determined.

Nearly 90 per cent of the informed producers knew that public hearings represented the established procedure for price-deliberations; but knowledge about location and time of price-hearings was much less widespread.

Producers were rather poorly informed about Class I and blend prices existing at the time the study was conducted. Less than one-fifth could estimate the Class I price within a \$2.00 range and only 17 per cent could state the month in which the most recent change in the Class I price had occurred. Producers evidenced a somewhat better knowledge of blend prices, with two-thirds estimating the blend within a \$2.00 range. The authors suggested that one plausible explanation for limited knowledge of milk prices lies in the transfer of "price-responsibilities" from the individual shipper to the producing group's representative. Several additional points were made regarding the inability of many producers to respond correctly to questions about milk prices: 1) limited knowledge may have been the result of greater producer interest in size of milk check than in price of milk, and 2) the study may have underestimated producer knowledge of prices inasmuch as some producers chose not to state a price if they were uncertain about the correct price.

Among the informed group, nearly three-fourths of the producers favored continuation of milk control. But among uninformed producers less than one-third approved of control. Knowledge about milk control appeared, therefore, to be an important element conditioning producer approval of control.

The majority of producers, 64 per cent, thought that the farm price of milk was below cost of production. However, producers generally attributed this unfavorable cost-return situation to a low relative price for milk rather than to excessive profits among milk distributors.

Informed producers displayed greatest approval toward the Commission's responsibilities of checking on dealer weights and tests and bonding of dealers. The Commission's power to regulate trade practices in milk distribution was favored least. The informed group as a whole was decidedly opposed to any widening of the regulatory functions of a control agency.

Approximately two-fifths of the informed shippers knew that the Commission did consider costs of production in establishing milk prices, although

three-fourths felt that costs should be used in price-deliberations. Most shippers felt that producers' costs of production should reflect the average cost of all producers. Further, more than four-fifths of the informed group stated that reduced costs of production would be the only valid reason for a Commission decision to lower the farm price of milk.

Two-thirds of the informed shippers thought that the present procedures followed in establishing milk prices did provide producers with an opportunity to influence prices. However, a relatively large number felt that producers had not taken full advantage of this opportunity. Producers generally felt that "one of their own" could best present producer testimony at public hearings.

Fewer than one in ten of the informed groups believed that milk control had been detrimental to the market milk industry, whereas, nearly two-thirds of the producers were convinced that the industry had benefited from the State milk control program. The chief advantages of control, according to producers, resulted from the Commission's power to establish minimum producer prices.

Comparatively large segments of the uninformed group -- those that did not know that a governmental agency established milk price -- felt that milk prices should be set either by producers or through bargaining between producers and dealers. The analysis indicated also that about one-fourth of the uninformed producers who opposed milk control in 1948 would favor introduction of regulatory measures during a prolonged period of depressed prices.

The study demonstrated that three forces -- years of formal education, size of farm business and absolute size of dairy enterprise -- were relatively important factors associated with producer knowledge about milk control. Geographical location of producers appeared to have little effect upon knowledge, however shippers in the northwestern area did display less knowledge of control than producers in other areas of the State.

The following is a summary of a recent study by the National Grange. The study is entitled "Barriers to Increased Consumption of Fluid Milk" and has been published as a special report by the National Grange in January, 1955.

In summarizing this study of current barriers to increased consumption of fluid milk, we find that:

1. Milk production is increasing in the United States and cannot readily be cut back. Large surpluses of manufactured dairy products have already been accumulated by the government in connection with dairy price support operations and these stocks are likely to continue large in the months ahead. For these reasons as well as the long-range objective of improved nutrition for Americans, increased per-capita consumption of dairy products--and especially fluid milk--is urgently needed.

2. Merchandising of milk and dairy products has been consistently weak over a period of many years. Although about half of the adult population seldom or never drinks milk, little direct sales attention has been given to this important consumer group. Nearly two-thirds of the American population are 20 years of age or older. This represents more than 100 million milk consumers or potential milk consumers. Modern "selling" techniques have not been employed on a widespread basis. Much of the sales effort that has been made, even on a limited basis, has been directed toward milk consumption by children, the age group within our population which already has the highest level of consumption. During the past year, however, a most promising and constructive program of sales and research has been inaugurated by the American Dairy Association.

3. Many individuals and organizations in the industry have had a complacent attitude toward the dairy situation and have resisted progressive changes in industry practices that would have led to greater consumption. Store sales of milk, paper milk cartons, and multi-quart containers such as gallon jugs are examples of the market developments which have been opposed. This resistance to change from the status quo persists in many places.

4. The industry--meaning producers, distributors, dealers, labor, and other important elements of the milk business--has failed to develop effective, industry-wide coordination and leadership. Industry-wide planning and programming, in connection with many of the problems now confronting industry, is lacking at both national and state levels. There is no single organization to represent all major elements of the industry or serve as a coordinating center for these elements. One result has been in-fighting within the industry to the detriment of dairy sales.

5. Milk delivery labor unions, in an effort to protect the home delivery system, have resisted store sales of milk and also paper and multi-quart milk containers. In addition, these unions have supported wholesale and retail price controls which tend to block vigorous merchandising and price competition in the fluid milk market.

6. Local sanitary and health regulations throughout the country have frequently been used to restrict or eliminate outside competition in local milk markets. There is evidence that many local sanitary codes are excessively detailed and over-zealously enforced, adding unnecessarily to the cost of production and to the difficulties of intra-state and inter-state milk sales. State health and licensing regulations have also been used to restrict competitive marketing. The present codes, which have served the public health interests of the nation well, could be advantageously simplified, modernized, and unified.

7. State control of wholesale and retail milk prices has eliminated price competition for all practical purposes, has handicapped efficiency and innovation in the industry, has caused controversy and consumer ill-will, and has led to wasteful and illegal trade practices. These results have hurt consumption. In most states with resale price control, consumers in the cities have been able to realize little if any price advantage from the efficiencies inherent in store and multi-quart milk marketing. Market stabilizing advantages claimed for resale price control have been achieved in other states through the control and protection of producer prices only. The contention that resale pricing prevents monopoly development does not appear to be supported by the facts; in some respects resale price control actually encourages monopolistic tendencies in the market. Resale price control has apparently been effective in preventing "price wars," but producer price protection and unfair trade practice statutes provide a less costly and equally effective alternative.

8. The application, interpretation, and administration of certain federal laws has contributed to some confusion and conflict in the industry. No clear dividing line is understood by the industry between the degree of acceptable competition enforced by anti-trust laws, and the prohibitions against unfair competition enforced by the Federal Trade Act. There is also an apparent inconsistency, in philosophy at least, between enforced competition under the anti-trust laws and restricted competition sanctioned by the Agricultural Marketing Agreement Act. The lack of uniformity in federal milk marketing orders and the complexity of pricing formulas have also brought market complications.

9. Milk sales have been hampered as Americans have become increasingly weight and calorie conscious. The notion that milk is a fattening food has gained credence. Some customers, as a consequence, have reduced or eliminated their milk consumption. Others have turned to drinking skim milk, or to milk with a low fat content. The concern about personal weight, and the relation of this concern to milk consumption, has been most prevalent among women.

This is the summary of the problems of the Milk Market Control Law in Virginia. The bulletin, No. 444 has been published by the Agricultural Experiment Station, Virginia Polytechnic Institute, Blacksburg, Virginia, in June, 1951.

"The Virginia Legislature with the support of a large segment of the fluid milk industry has concluded that it is necessary to regulate the dairy industry to promote the public welfare. This conclusion follows from the assumption that the market for the milk industry becomes highly unstable under the type of competition normally operating in the industry. The industry has supported efforts to partially remove itself from the unstablizing influence of these forces. One of the results has been the enactment of the Milk and Cream Act of 1934.

This Act created the State Milk Commission and provides for intensive regulation of the fluid milk industry. The powers granted are broad. The highest court of the State has ruled on two occasions that these powers are within constitutional limits.

The State Milk Commission has been charged with the Herculean task of regulating the industry. On the basis of stated aims, logically the job would seem to be that of providing the minimum regulations necessary to reduce the wide, unstablizing fluctuations and allowing the maximum amount of freedom of action consistent with this goal. The industry, however, has not been inclined toward this approach and has insisted that the Commission establish detailed standards by which the dairy industry operates. Apparently it is hardly realized that for an agency to make all the decisions that ordinarily would be determined by the day-to-day forces of competition, the industry must be highly regimented and the agency be of a size capable of doing the job.

The procedures required by law and those resorted to by the Commission to accomplish the purposes and aims of the Act result in a number of problems and difficulties as noted in the following paragraphs.

A public hearing at which evidence is presented voluntarily is required before the Commission takes any action affecting the market in general. The hearing is only the initial step, however. A process of bargaining, negotiation, and compromise between industry groups with the Commission serving in the dual capacity of mediator and arbitrator begins immediately after the hearing. Resort to this procedure of reaching a decision by controversy and negotiation between the interested parties rather than on the basis of objective standards or criteria is an inevitable result of the inadequacy of evidence derived from the hearing or available from other sources. Complete and accurate factual information is required for arriving at independent decisions which can be firmly supported in the face of strong pressures likely to be encountered. It is unlikely that data can ever be adequate for all such decisions pertaining to an industry having characteristics of the dairy industry.

The control agency has not attempted a direct policing of the industry. Rather it depends heavily on its power to grant or withhold certain privileges to secure compliance with its regulations. Enforcement is also predicated on the voluntary cooperation of a major part of the industry. For this reason the Commission has considered it expedient in many instances to derive the regulations from the highest common denominator obtainable from a compromise between the interested groups.

The inadequacy of factual data on which to base independent decisions and the necessity for negotiation to secure voluntary cooperation places the control

agency in a vulnerable position. This procedure and approach invites the danger of creating a mechanism through which the milk industry is able to stabilize itself by unduly restricting competition through mutual agreement which might otherwise be prohibited by law.

Freedom and ease of entry to the market are essential to a competitive enterprise system. The procedure under the regulations of requiring licenses based on evidence of need for additional product or service and of establishing a differential price for initial production retards rather than promotes these aspects.

The milk industry in controlled markets operates under a system of restricted licenses which may be refused or revoked for cause. Those issued to distributors are for specific areas of operation. In some sales areas which include several markets, individual licensees often are permitted to operate in only a specified segment of the sales area. Producer licenses tied to a base or quota system as provided in the market regulations grant the producer a specific share of the market. This authority to issue restricted licenses becomes a strong weapon for limiting open market competition when so used.

The use of bases or quotas for producers has been standard procedure for controlled markets. The use of a semi-closed base in conjunction with a base period and specific assignment to distributors is an attempt to make the base contribute to seasonal adjustment, market equalization, and production control. This threefold function adds to the difficulty of administration.

Under the regulations minimum prices are fixed for both the producer and consumer. Even though only minimums, these prices for the most part have been the prevailing prices. The industry has preferred to have the sanction of the Commission in the form of a price order before making changes.

The policy of establishing the same minimum retail price for milk sold in the store as delivered to the doorstep differs from historical practice. This procedure was aimed at discouraging store sales in support of the objective of building up volume per route in home delivery in an effort to reduce unit costs. The assumption prevailed that this would reduce the total marketing bill and therefore be beneficial. Not only is this debatable but it overlooks the limitations on the consumer's opportunity to choose the amount of services he wishes to purchase.

With the reduction in price competition resulting from fixed prices it became expedient to regulate non-price competition also. Trade practices dealing with services, display facilities, advertising, deposits and quality were brought under regulation in order to prevent competition in these areas undermining the established prices.

In general, producer-distributors strongly opposed the regulations in the early years. A number of the practices by which this group maintained a share of the market have been prohibited under the regulations. Their rapid decline during the last fifteen years may be partly attributed to the control program.

Producers' cooperative associations occupy an influential position under the regulations. They facilitate the functioning of the control agency for the most part. Procedures adopted by some associations create difficulties in administering the regulations.

The control agency finds itself in the unenviable and difficult position of maintaining an open approach to new developments while operating under a procedure and mechanism that gives emphasis to the status quo. Change is always disturbing. It multiplies the difficulties of administering until adjustments have been made by all segments. But effort should be made to avoid any procedure that would give greater voice to the status quo than to the pioneers in such a way as to stifle progress.

As required by law, the Commission administers the regulations by markets. Markets are inextricably related and are not easily regulated as separate entities. Many of the regulations that are burdensome to competition have been necessitated by this effort to administer control by markets in compliance with the law. To regulate a market effectively as a separate market it becomes necessary to insulate it against some of the influences of surrounding areas.

Several problems and difficulties inherent in the present approach to regulating the dairy industry have been pointed out. As long as it is deemed advisable to exercise some control over the industry, current methods of doing the job should be weighed against alternative approaches. One such alternative reasonably consistent with the prevailing concept of private enterprise might be projected along the line of (1) applying the law uniformly to the State as a whole, taking cognizance of transportation differentials, (2) establishing prices at the producer level only and on a short-run stop-loss basis, (3) requiring uniform and proper accounting of weight, test and utilization of milk, and (4) permitting economic forces to determine market boundaries, sources of milk, entry to the industry and other decisions. The results that might be obtained from this approach have not been analyzed in this study, but it is anticipated that further effort will be devoted to this end."

