

12/18/2003 Entry: "Producers Remain Split Over Pork Checkoff"

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Just in time for the holidays - and a dinner table for Thanksgiving and Christmas that comes with all the trimmings, including that delicious slab of ham - comes the escalating debate over the national pork checkoff program.

Both sides of the battle are gearing up for the next round, following a recent court ruling that said the \$54 million national pork checkoff program violates the First Amendment and is unconstitutional.

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati on Oct. 15 ruled against an appeal by the U.S. Department of Agriculture and a pork industry group, saying the lower court was correct to end "in its entirety" the program, which collects mandatory fees from hog farmers, because of concerns it violated free speech.

Bill Tempel, a Gentryville, Ind., pork producer and president of the Indiana Pork Producers Association, said that despite the ruling in Michigan, the pork checkoff program would not be immediately affected.

"The pork checkoff will continue to provide programs for all producers to increase the demand for pork and to provide access to the knowledge and opportunities that allow all producers to be competitive," Tempel said.

The U.S. Department of Justice, in consultation with the USDA, will determine the next steps in the legal process. The Justice Department can ask for a rehearing by the Circuit Court or can seek review of the case by the Supreme Court.

Remaining competitive

National Pork Board member Danita Rodibaugh, a producer in Rensselaer, says Indiana pork producers believe it's essential to the future of the pork industry to find out if the checkoff can stand the test of the courts.

"The checkoff was established so that producers could accomplish together what we cannot individually. I personally believe, as an independent producer, losing the checkoff would be a detriment to my ability to remain competitive," Rodibaugh said.

But the decision was hailed by the Campaign for Family Farms, a Missouri-based coalition of small hog farmers, who had argued that the program violated free speech, since it required farmers to fund promotions that they did not necessarily benefit from or agree with.

"Hog farmers voted it down. Now two federal courts have decided the mandatory pork checkoff is unconstitutional and is entirely invalidated," said Mark McDowell, a pork producer in Hampton, Iowa, and spokesman for Campaign for Family Farms.

Indiana farmer Jolinda Buchanan, farm program coordinator for the Citizens Action Coalition of Indiana, agreed.

"This is a big victory for family farmers and for democracy in America," she said.

Family farm protection

John Cardwell, legislative director for the Citizens Action Coalition of Indiana, said the checkoff has been costly for thousands of family farmers across the country.

"The pork checkoff has forced family farmers to pay into a program that supports corporate concentration, industrialization and the factory farm system of livestock production, which drives family farmers out of business," he said. "The end of the checkoff is long overdue."

The \$54 million pork checkoff program is financed through a mandatory fee, called a "checkoff," which now amounts to 40 cents for every \$100 of a sold pig's value. It is best known for its promotion of pork as "the other white meat." The fees collected from hog farmers also are used for financing research and consumer information.

The Campaign for Family Farms helped organize a binding referendum in 2000 in which hog farmers voted 15,951 to 14,396 to end the program. The Michigan pork group and the USDA challenged the referendum in court and settled in 2001, with the USDA saying the program would continue.

Campaign for Family Farms then filed a countersuit challenging the legality of the agreement and the constitutionality of the program. In January 2002, U.S. District Judge Richard Enslin dismissed the portion of the countersuit regarding the settlement's legality. But his October 2002 ruling supported the coalition's claim that the checkoff program violated its First Amendment free speech and association rights.

The IPPA has responsibility for Indiana checkoff-funded research, promotion and consumer information projects and for communicating with pork producers and the public.

"Whether you support the pork checkoff or not, the facts are pretty clear that the checkoff has increased pork demand, switched the U.S. from a net importer of pork to an exporter of pork and provided producers with valuable production technology research," Rensselaer's Rodibaugh said.