



Capper-Volstead Act threatened *Passed in 1922, the Capper-Volstead Act remains relevant today*

Among Cooperative Network's longest standing resolutions is one supporting the Capper-Volstead Act, sometimes referred to as the "Magna Carta" of cooperative legislation.

Passed in 1922, the Capper-Volstead Act still provides important protections which are essential to maintaining and promoting the economic well-being of farmers today. Without limited antitrust immunity for cooperatives, family farmers would not be able to compete in today's economy due to their lack of bargaining power in dealing with relatively few, large buyers, and would lack the ability to integrate into agricultural processing to compete with those entities.

Before the enactment of Capper-Volstead, officers of cooperatives had been arrested and indicted for alleged violations of antitrust laws. In response, the Capper-Volstead Act allows farmers and agricultural producers to join together to market, price and sell their products through coop-

eratives, and provides a limited exemption for cooperatives from certain provisions of the Sherman Antitrust Act which prohibits companies from joining together in monopolies to prevent competition.

The protections provided by Capper-Volstead are limited, however. To qualify for Capper-Volstead protections, farmer cooperatives must meet several requirements:

- The cooperative's voting members must be agricultural producers.
- The cooperative must choose to either operate on a one-member/one-vote basis, or must limit distributions on dividends to eight percent.
- The cooperative must conduct more than half of its business with members.

As a protection against potential monopolistic activity, the Act gives the U.S. Secretary of Agriculture authority to prevent cooperatives from using their market power to unduly enhance the price of the

products they market.

Now, Capper-Volstead is coming under scrutiny as the U.S. Department of Justice (DOJ) reviews the nation's antitrust laws and holds joint hearings with the United States Department of Agriculture (USDA) on competition and regulatory issues in the agriculture industry. (See related story on Page 2.) Perhaps most troubling is DOJ's Assistant Attorney General Christine Varney's assertion that the Capper-Volstead Act "might not be the right law for the state of the industry at this time."

"Capper-Volstead is still very significant, because it allows farm operators to organize effectively and to judiciously use what market power they gain through cooperative marketing and bargaining associations," Oemichen said. "Without Capper-Volstead, many farmer cooperatives would cease to exist and the farmers and communities they serve would suffer irreparable harm."

"Cooperatives are truly a means for smaller farm operations to survive and compete in the world marketplace," Oemichen added. "Through cooperatives, individual farmers can remain competitive and be a countervailing force in an agricultural marketplace increasingly dominated by a few, large investor-owned businesses."

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-Bill Oemichen, Cooperative Network President & CEO



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Cooperative
Network
Focus On...

Prepared and distributed to provide issue-specific information on matters pertaining to Wisconsin's and Minnesota's member-owned cooperatives.

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Madison hearing set for June 25

DOJ and USDA hold hearings on competition issues in agriculture

The Department of Justice's (DOJ) and the United States Department of Agriculture's (USDA) joint hearing on competition in agriculture has been scheduled for June 25 in Madison. The session, which will focus on the dairy industry, will be held on the University of Wisconsin campus in the Great Hall, Memorial Union, 800 Langdon Street, Madison, Wis.

Cooperative Network is working closely with members, the National Council of Farmer Cooperatives (NCFC) and other stakeholders preparing for the hearing. Cooperative Network has secured space near the hearing site to provide a member briefing before the hearing and to be used as a headquarters for members. To ensure that the views of farmer-owned cooperatives are

heard during the debate, Cooperative Network has submitted several names of individuals who could be potential speakers at the Madison hearing.

The DOJ and USDA have said the workshops will address the dynamics of competition in agriculture markets, including buyer power and vertical integration. They will examine legal doctrines and jurisprudence, and give farmers, ranchers, consumer groups, processors, agribusiness, and other interested parties an opportunity to provide examples of potentially anticompetitive conduct and to discuss any concerns about the application of the antitrust laws to the agricultural sectors.

Specific areas of focus at the Madison hearing may include concentration, market-

place transparency and market dynamics in the dairy industry. Hearings have also been held in Ankeny, Iowa, and Normal, Alabama. The Iowa hearing examined issues of concern in the seed and livestock industries, and the Alabama hearing focused on the poultry industry.

Also scheduled is an August 27 hearing in Fort Collins, Colorado, focusing on the livestock industry, and a Dec. 8 hearing in Washington, D.C. which will examine the discrepancies between the prices received by farmers and the prices paid by consumers.

Cooperative Network members planning to attend the Madison hearing should contact Dairy Director David Ward for more specific information on activities surrounding the event at 608-258-4414.

Cooperative Network Member Alert

Stand up for Capper-Volstead—Cooperative Network urges all of its members to get involved and work to educate lawmakers and others about the importance of the Capper-Volstead Act.

The National Council of Farmer Cooperatives has prepared a variety of materials to assist in this lobbying and education effort. The materials can be accessed from the home page of Cooperative Network's website www.cooperativenetwork.coop by clicking on "NCFC Materials." The information includes a fact sheet, as well as a sample letter that can be tailored for members of congress and newspaper editors, and a bill stuffer that can be customized by individual cooperatives.

To follow activities related to the joint DOJ/USDA hearings, visit the Department of Justice's website <http://www.justice.gov/atr/public/workshops/ag2010/index.htm>.

On your behalf— Since learning about the Department of Justice's (DOJ) and United States Department of Agriculture's (USDA) plans to study competition and regulatory issues in the agriculture industry, Cooperative Network has been working on numerous fronts to ensure that the Capper-Volstead Act is protected. Educating DOJ, USDA, state lawmakers, members of Congress and the public about the importance of Capper-Volstead Act is an ongoing effort.

- Protection of the Capper-Volstead Act was one of five key messages delivered by Minnesota cooperators to state lawmakers at Minnesota's Co-op Day at the Capitol on Feb. 18.
- In March, Cooperative Network's board of directors sent letters to the Wisconsin and Minnesota congressional delegations, as well as DOJ and USDA, expressing reasons why Capper-Volstead should be retained.
- Cooperative Network President and CEO Bill Oemichen, a former antitrust attorney and state trade practices regulator, has traveled twice to Washington, D.C. to meet with the staff of the U.S. Senate Antitrust Subcommittee on this issue.
- Thirty-five Wisconsin legislators signed a letter asking the state's congressional delegation to protect the Capper-Volstead Act and other laws that give farmers the ability to form cooperatives. Cooperative Network staff delivered the letters to congressional members in Washington, D.C. in early May.
- Twenty-six Minnesota lawmakers signed a letter that was mailed to Minnesota's congressional delegation explaining the importance of cooperative competition in the agricultural marketplace and requesting protection for the Capper-Volstead Act. Cooperative Network staffer Amy Fredregill has also met with members of Minnesota's congressional delegation on this important issue.
- Cooperative Network staff has discussed the importance of the Capper-Volstead Act with the attorneys general in Wisconsin and Minnesota. Attorney General Lori Swanson in Minnesota and Attorney General J.B. Van Hollen in Wisconsin *did not join* in a letter with other attorneys general across the country calling for cooperative antitrust exemptions to be revisited.
- Cooperative Network Dairy Director David Ward attended the first DOJ/USDA listening session held in Ankeny, Iowa, and is working closely with those organizing the Madison hearing, as well as members and other agricultural groups planning to attend.
- Cooperative Network has posted materials on its website aimed at educating members and others about Capper-Volstead and getting them involved in the issue.
- Cooperative Network is working with the National Council of Farmer Cooperatives to draft and place newspaper editorials highlighting the importance of the Capper-Volstead Act in keeping Wisconsin and Minnesota farmers competitive and rural communities strong.