



NATIONAL COUNCIL OF FARMER COOPERATIVES

The Capper-Volstead Act

The Basics

- The Capper-Volstead Act provides limited antitrust immunity to qualified associations of producers, including farmer cooperatives.
- Without antitrust protection, farmers or dairymen would not be able to join together to agree on prices at which they will sell their product. Such activities would violate U.S. antitrust laws by eliminating competition.
- With the limited antitrust immunity provided under the Capper-Volstead Act, producers may act together in their own cooperative and may also join with other cooperatives to form a common marketing agency.
- The Act gives the Secretary of Agriculture authority to prevent cooperatives from using their market power to unduly enhance the price of the products they market.

To Qualify

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

Restrictions

- Agreements between cooperatives and non-cooperatives are subject to the antitrust laws.
- Antitrust protection does not apply if cooperatives combine or conspire with non-producers to monopolize or restrain trade.
- Monopolistic practices, engaged in outside the legitimate purposes of a cooperative, are not within the scope of the immunity.

The Capper-Volstead Act

7 U.S.C. 291, 292

Section 291. Authorization of associations; powers

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: Provided, however, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

Section 292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure

If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing . . . If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade . . .