



# Capper-Volstead Protections *for* Farmers & Cooperatives

## **NCFC Position:**

NCFC strongly supports the protections afforded by the Capper-Volstead limited antitrust immunity for farmers and their cooperatives. Such protections are essential to maintaining and promoting the economic well-being of farmers, ensuring access to competitive markets, and helping capitalize on market opportunities.

## **Background:**

In 1922, Congress passed the Capper-Volstead Act, giving farmers and ranchers the legal right to join together in cooperative associations for their mutual benefit. The Capper-Volstead Act gives agricultural producer organizations limited antitrust immunity “in collectively processing, preparing for market, handling, and marketing” their products and permits such organizations to have “marketing agencies in common.” The protections provided by the Capper-Volstead Act are essential to the economic well-being of farmers in today’s economy. Without limited antitrust immunity for cooperatives, family farmers would not be able to compete in a business 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.

The protections provided by the Capper-Volstead Act are limited, however. In order to qualify for Capper-Volstead protections, farmer cooperatives must meet several requirements. First, the cooperative’s voting members must be producers. Second, the cooperative must choose to either operate on a one member/one vote basis, or limit distributions on dividends to eight percent. Finally, the cooperative must conduct more than half of its business with members. As a protection against potential monopolistic activity, 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.

## **Current Status:**

The Administration has taken an active interest in antitrust enforcement and has focused on agriculture as an area of inquiry. Administration officials have made numerous negative statements about the Capper-Volstead Act and have questioned whether it is still needed. The Department of Justice and the Department of Agriculture will hold joint workshops in 2010 to explore competition issues affecting agriculture and the role for antitrust and regulatory enforcement.

NCFC is the industry leader in support of the Capper-Volstead limited antitrust immunity. NCFC believes repealing the Act would be economically devastating and would create tremendous uncertainty for farmers and their cooperatives, employees, suppliers, lenders and customers, as well as rural communities. Loss of Capper-Volstead would result in less rather than more competition by removing farmers’ ability to have some market power in an economy dominated by large companies.

## **Action:**

NCFC urges Congress to support and maintain the crucial protections provided by the Capper-Volstead Act and the other federal statutes. Without those protections, many farmer cooperatives would cease to exist and the farmers and communities they serve would suffer irreparable harm.

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