

**Testimony of Dr. Ronald D. Knutson
on behalf of
American Independent Dairy Alliance (AIDA)**

Introduction and qualifications

1. My name is Dr. Ronald D. Knutson. I am a Professor Emeritus at Texas A&M University and reside at 1011 Rose Circle in College Station, Texas. At Texas A&M, I served for 28 years as Professor and for 13 years as Director of the Agricultural and Food Policy Center, whose primary task involves completing studies of the impacts of proposed policy changes for the U.S. Congress. Prior to accepting the Texas A&M position, I was the Chief Economist in USDA's Agricultural Marketing Service and Administrator of its Farmer Cooperative Service. Throughout my nearly 50 years as a professional agricultural economist, one of my primary research areas has been dairy marketing and policy. In this capacity, I have served as the Chairman of two USDA Milk Pricing Advisory Committees; one evaluated the regional cooperative developments in the late 1960s and the early 1970s, Minnesota-Wisconsin manufacturing milk pricing series, and the implications for Federal milk marketing order pricing. The second USDA study evaluated pricing and classification options for Federal Milk Marketing Order Reform. ~~I have attached my professional résumé.~~

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Preparation for testimony

2. I have been engaged by the members of the American Independent Dairy Alliance (AIDA) for the purpose of analyzing the market position of producer-handlers, to evaluate the positions taken by the petitioners and their impacts, and to evaluate the alternative proposals presented in this hearing by AIDA members. To accomplish this task, I have reviewed and analyzed the National Milk Producers Federation (hereinafter NMPF) and International Dairy Foods Association (hereinafter IDFA) petitions. I reviewed the *Federal Register* notice for this hearing dated April 9, 2009, and the *Federal Register* Final

Decision dated December 14, 2005, regarding the regulation of producer-handlers for the Pacific Northwest and Arizona-Las Vegas orders, hereinafter referred to as the 2006 producer-handler decision. I have reviewed and analyzed much of the data and information related to the hearing that has been posted by the Dairy Programs/AMS/USDA, and relied on this data for substantial portions of my analysis. In addition, I have reviewed and analyzed AIDA's "Request for Denial of Proposals to Eliminate Producer-Handler Exemption..." and have analyzed and evaluated AIDA's alternative proposals. Finally, I surveyed the members of the AIDA to become familiar with their operations and to obtain data that I could utilize in completing my analysis and in developing my testimony.

Summary of conclusions reached

3. I have concluded that it is time for a Federal order policy reality check in the context of today's milk industry and how it operates. This reality check is particularly important because this hearing decision is establishing national policy for Federal order regulation and for the dairy industry. The NMPF and IDFA proposal that is before you would, for the first time I am aware of, effectively eliminate an economic milk marketing option for milk producers having over 250 cows. As a matter of national dairy and Federal order policy, such a regulatory change would not only be inconsistent with the Federal order policy since its creation under the Agricultural Marketing Agreement Acts of 1937, as amended ("AMAA" hereinafter); it would also be inconsistent with the American economic free-enterprise system as established by our forefathers.
4. From a national perspective, the producer-handler organizational form, subject to the regulatory limits that have been established by USDA, is not and never has created disorderly marketing conditions. It is not possible, from a macroeconomic national perspective, for producer-handlers with only 1.46% of the fluid milk market, to have sufficient market power to become "disorderly" under any reasonable

definition of the term. On both the cooperative and the processor sides of the market, there are large concentrations of market power that make the producer-handlers' share minuscule by comparison.

5. There is no realistic threat that producer-handlers will ever achieve such a scale of operation that they would become a source of disorder within the meaning of the AMAA. If Federal orders were giving producer-handlers the substantial advantages that have been and are being alleged, there would surely be a substantial influx of new producer-handlers to take advantage of these opportunities. There is no such influx. In any case, and in the interest of preserving competition and choice in our economic system, the producer-handler status is a valuable option for all producers based on the economics of their operations.
6. The activities of producer-handlers do not violate the purposes of the Federal orders as specified in the AMAA.¹ Surely, with only 39% of the milk supply being used in Class I², consumers are assured an adequate supply of pure and wholesome milk. Surely, cooperatives have effectively utilized the variety of methods made available to them for addressing the farm income situation. It is equally certain that the NMPF and IDFA proposals do not and could not address the farm income situation.
7. The principal assertions relied upon by the NMPF and IDFA to establish disorderly marketing conditions on a national scale are not substantiated by the data. The data presented and cited herein clearly indicate: First, while Federal orders set minimum prices, in most instances these minimum prices do not exist in the market place, and little milk or no milk is traded at these minimum prices. The Federal order minimum prices are masked in the market by premiums, charged by cooperatives,

¹ 7 U.S.C. Sec. 608c(18)

² Federal Milk Order Marketing and Utilization Summary, Annual; Price and Pool Statistics For Federal Milk Marketing Order Areas for the Year 2008, Dairy Programs/AMS/USDA.

that frequently exceed minimum prices by \$2.00/cwt or \$0.23 cents/gallon. And while Market Administrators calculate a blend price, few producers receive that price even after taking into account variation in the values of milk components. In fact, it is not unusual for producers who are members of cooperatives to receive less than the blend price and for producer pay prices to vary substantially among producers within the same cooperative. Any disorder that may exist in Federal order markets is far more likely to be caused by the fact that raw milk prices have little or no relation to Federal order prices than it is to be caused by the unsupported assertion that producer-handlers create disorder that adversely affects price and income objectives of the AMAA.

8. In this environment, dominated by NMPF cooperative members, it is asserted that the appropriate transfer price is the difference between the Federal order blend price, which does not exist in the market, and the Federal order Class I price, which also does not exist in the market. This reasoning defies economic logic not only because these Federal order prices are not market prices but also because in the real world, transfer prices are based on costs.
9. Any decision to change national producer-handler policy presents different issues than those previously considered by the USDA. A national policy decision requires an analysis of the entire milk market and the role of producer-handlers in that market. My analysis clearly and factually indicates: First, producer-handlers are frequently producing unique and growing niche market products such as organic, kosher, and grass-fed milk, which inherently is much more costly to produce. Second, some producer-handlers continue the tradition of delivering milk to consumers. Third, producer-handlers are forced to adjust their production patterns to minimize surplus production, which would be sold at a substantial loss. Fourth, the managers of producer-handler operations have to divide their attention between both the farming and the processing sides of the operation, which

reduces the cost advantages that would otherwise be associated with specialization. Fifth, producer-handlers have substantial sunk capital investment costs in their production, processing, and distribution. Ignoring these realities leads to conclusions about producer-handlers that are without foundation.

10. The 1962 Nourse Report to the Secretary of Agriculture took great care in defining the orderly marketing objective of Federal orders. Its definition describes the characteristics of orderly markets in economic terms including equalizing the market power of buyers and sellers, assuring adequate and dependable milk supplies, maintaining economic order in the industry, insuring equitable treatment of all parties, and maximum freedom of trade with proper protection against loss of outlets.³ The emphasis here is on maintaining a regulatory balance among all parties in the marketplace and treating all parties equitably, and by implication, not necessarily equally. Certainly the Nourse report concept of orderliness would not support a national policy that put minority independent producer-processor interests at a competitive disadvantage or deny producers the option of becoming fluid milk processors.
11. Proposals 23, 24, and 25 are alternatives to the elimination of the producer-handler designation that are workable, consistent with other federal order regulations, and will not have the effect of damaging existing businesses, or unreasonably restricting future choice. These options include exempting all producer-handler own-farm production with down allocation, exempting all producer-handler milk sold through home delivery and handler-controlled retail outlets, and by establishing individual handler pools for all handlers across all Federal orders.
12. The remaining segments of my testimony present facts that will substantiate the conclusion that producer-handlers are not

³ Federal Order Study Committee, pp. I-21-22.

a source of disorder in milk markets, and will discuss implications of the current rulemaking process for Federal Order policy. I will then explain and analyze how AIDA proposals would address the issues that gave rise to this hearing.

Overall status of producer-handlers in the milk industry

13. In the context of a consolidated national dairy industry where multi-state cooperatives and national processors and retailers exert significant market control, producer-handlers are small, both in their relative size and in the aggregate. By regulatory requirement, they are operations that control all of their milk production facilities and all of their milk processing facilities. Certainly, the size of producers, handlers, and producer-handlers has grown over the years. Table 1 provides a factual comparison of these growth trends. It was developed from data that are contained in the record. However, in the absence of complete records, for the years 1969-1992 the producer-handler volume data were estimated by multiplying the Class I Federal order sales times the monthly percent of sales by producer-handlers as posted by Dairy Programs in preparation for this hearing. This sales estimate was then divided by the number of producer-handlers from the same Dairy Programs source.⁴

14. The data in Table 1 indicate that the average producer size increased by 4.3-fold from 1969 to 2001 and 5.7-fold from 1969 to 2008. The average handler size increased by nearly 9.2-fold from 1969 to 2001, by nearly 10.3-fold to 2006, and then, with reduced sales, decreased to 9.3-fold in 2008. The average producer-handler increased by 4.5-fold over the 1969 to 2001 period, by nearly 8.3-fold to 2005, and then decreased to 6.1-fold in 2008. As would be expected, because producer-handlers are both milk producers and processors, the average

⁴ Information on Producer-Handlers Operating in Federal Order Marketing Areas, Selected Time Periods, Dairy Programs/AMS/USDA.

producer-handler increase in size lies between that of the producer size increase and the processor size increase.

15. These data clearly indicate that producer-handler growth is constrained, which is not what the NMPF and IDFA would like the USDA to believe. The fact that producer-handlers must maintain sole ownership and control over their operations places a de facto limit on the size of producer-handlers that is dictated by the realities of their integrated operations. This fact is corroborated by the posted table titled "Federal Order Small Plant Structure Information for May 2008" that was appended to and relied upon by the NMPF petition for this hearing. Table 2 abstracts from this table to clearly indicate that producer-handlers and other exempt plants have been greatly constrained in growth relative to conventional regulated pool distributing plants. Of the 45 producer-handlers in May 2008, 40 have a sales volume of less than 2 million pounds, and only 5 had a volume of over 2 million pounds. All of the exempt plants had a volume of less than 2 million pounds. No producer-handlers even approach the increasingly common 30 million pound size that characterizes the cutting edge of today's fluid milk processing sector. The over 30 million size category is not broken out in the May 2008 table.

16. In sharp contrast, only 46 conventional pool distributing plants had a volume of less than 2 million pounds, and ~~507~~²¹⁰ had a volume of over 2 million pounds. Of these ~~507~~²¹⁰ plants, 73 had a volume of over 20 million pounds. While it can be presumed that more volume and less competition are preferred by the ownership of each of these 73 plants, it is difficult to imagine the producer-handlers having sufficient market power to create disorderly market conditions. Excluding competitors surely is not a role that Federal orders should either sanction or support. RK

17. If, as the NMPF and IDFA suggest, producer-handlers are benefitting so much from the producer-handler exemption, it is not apparent in their numbers, which have declined by 53% since 2001, from 79 to 37 producer-handlers in March 2009.

Figure 1 and the following Federal order statistics indicate the number of producer-handlers for selected years:

- October 1969—421
- October 1992—137
- December 2001—79 and a 42% decrease from 1992 in 9 years, which is 4.6% annually.
- December 2005—46
- December 2006—43
- December 2008—47 and a 41% decrease from 2001 in 7 years, which is 5.8% annually
- March 2009—37 and a 21% decrease in 3 months

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18. These data indicate that the number of producer-handlers has declined successively since ¹⁹⁶⁹~~1960~~ from 421 to 37 in March 2009. It is also informative to note that the rate of decrease in producer-handler numbers has accelerated from 4.6% annually from 1991 to 2001 to 5.8% annually from 2001 to 2008. Then in 3 months from December 2008 to March 2009, the number of producer-handlers decreased by 21%. This rapid and substantial decline indicates that a large number of producer-handlers closed their doors, given the adverse economic climate for milk production and lack of sufficient producer-handler margins in processing and distribution to absorb the losses in production.

19. As a consequence of the 2006 producer-handler Federal order decision and the proposals by the NMPF and IDFA for this hearing, it appears that eliminating producer-handlers has become a principal national Federal order dairy policy objective of these petitioners. Also, it is important to note that the Dairy Program has not published, annually, a complete set of statistics on the number and sales of producer-handlers, apparently because producer-handlers were not considered to be sufficiently important in the markets for milk.

20. While the NMPF and IDFA might admit to the fact that the number of producer-handlers has decreased, they imply that

producer-handler sales have increased. This is not apparent from the data, as illustrated in Figure 2 utilizing Dairy Program statistics. The estimated producer-handler sales volume suggests that producer-handler sales volume hit a peak of 853 million pounds in 1992. Since 1992, the producer-handler sales volume has declined. Since 2000, for which the Dairy Program has posted annual producer-handler volume data,⁵ producer-handlers' sales volume has seen no increasing trend. While it might be asserted that since the Pacific Northwest, Arizona Las Vegas Federal order decision, the producer-handler volumes have rebounded, that assertion would be based on only one year of data.⁶ The indicated decline in the number of producer-handlers in 2009 would suggest a potential reversal of the increased volumes in 2008.

21. The percent sales by producer-handlers shows the same declining trend (Figure 3). It is true that producer-handlers' share of sales surged in the 1960s. There was another surge from 1.6% of route sales in 1980 to 1.9% in 1992. However, by 2008 the producer-handlers' share had declined to 1.46%. If the producer-handlers' exemption was and is of such great benefit, why is it that their market share has not increased?
22. I have surveyed each of the producer-handler members of the AIDA group. While the AIDA members are highly diverse, and I will say more about their factual characteristics subsequently, there are seven substantive characteristics that stand out:
 - Relative to the cooperatives and processors that the NMPF and IDFA represent, they are all small businesses that run processing plants and market the milk they produce.

⁵ See Dairy Programs/AMS/USDA, Sales of Fluid Milk Products in Federal Milk Order Marketing Areas, by Producer-Handler, by Order, 2000-2008, posted April 27, 2009.

⁶ See Dairy Programs/AMS/USDA, Sales of Fluid Milk Products in Federal Milk Order Marketing Areas, by Producer-Handlers, by Order, 2000-2008, posted April 27, 2009.

- They each have their own market niches that reflect the ever-increasing diversity of the consumer market, which no longer treats milk as a homogeneous commodity. In performing this important function of appealing to consumer diversity, they build and expand the market for milk, compete more effectively with nondairy products, and serve particular consumer tastes and preferences, such as for organic products.
- Those producer-handlers that home deliver are often the last vestige of home delivery services to customers who need this higher level of service, and can afford to pay for it. With an ever-aging population, this niche market service can become more important in the future.
- They sometimes operate their own stores, a further complex step in marketing beyond producing and processing milk.
- Their emphasis in marketing to wholesale outlets is often on smaller accounts and certainly is in smaller volumes per account. This emphasis is sometimes dictated by the realities of supermarket retailers who limit shelf space allocated to other than their conventional major homogeneous milk brands.
- Their consumer prices generally far exceed those of conventional products as dictated by higher production costs for niche markets, higher processing costs, higher distribution costs, and by the pricing practices of the retail chains.
- The minority of producer-handlers that are tagged as being price competitors by their rivals, are viewed as such, because they are penetrating highly concentrated monopolistic markets. In this case, competition is welcomed by both the wholesale and the consumer customer base. Most certainly this is not the type of

competition that Federal orders were designed to regulate as a matter of national policy. Quite the opposite, Federal orders were created at a time when milk markets were highly monopolistically controlled by a few major proprietary milk processing firms.⁷ Competition is one of the key factors that gets the public a sufficient supply of milk at a reasonable price, a key objective of the AMAA.

Assertion vs. Reality: Who sets the raw milk price?

23. It is often asserted that Federal orders set raw milk prices. The NMPF petition makes this assertion when it states on page 4 that the “regulated competitors” of producer-handlers “pay the Class I price for the same milk” as producer-handlers produce. In reality, the price paid by the “regulated competitors” of producer-handlers is not the Federal order Class I price. Instead it generally is the Class I price plus a substantial premium that is set by large cooperatives. The Dairy Programs/AMS/USDA refer to this price as the “announced cooperative Class I price,” which it regularly reports in its Dairy Market News weekly reports and annually in its Dairy Market Statistics publications. Premiums exist because cooperatives have sufficient control over the milk supply that they are able to demand and extract premiums from even the largest milk processors.
24. Table 3 indicates that cooperative premiums over Federal order Class I prices increased from an average of \$1.11/cwt in 1999 to \$1.83/cwt in 2006, then declined slightly to \$1.81/cwt in 2007, and then increased to \$2.48/cwt in 2008. Clearly, the trend in Class I premiums is in an upward direction, and the trend reflects more than just higher energy/transportation costs.
25. Table 4 indicates that for the flush production month of April, the size of the premium is highly variable from city to city and

⁷ Federal Order Study Committee, *Report to the Secretary*, USDA, Washington,, D.C., April 1962, pp I-1-2.

over time. For example, in April 2009, Federal order premiums ranged from \$0.50/cwt in Phoenix to \$3.14/cwt in Chicago. Premiums are lower in western markets largely because of competitive factors associated with California regulation and production. In the rest of the United States, where Federal orders and cooperatives dominate, the April 2009 premiums for plants located in the cities indicated ranged from \$1.50/cwt in Boston to \$3.14/cwt in Chicago.

26. The data in Table 4 also indicate a clear trend toward higher premiums for each of the cities. Surprisingly, in April 2009, for a number of markets such as Chicago, Dallas, Denver, Kansas City, Oklahoma City, and Seattle, cooperatives were able to increase premiums in spite of surplus conditions, falling milk prices, and falling energy prices. To an economist, this is a clear indication of substantial cooperative market power. It is also an indication that Federal order markets are not disorderly or chaotic in terms of milk suppliers' ability to negotiate an advantageous price. If producer-handlers were a significant force causing market disorder, these premiums would either be unstable, would not have increased in 2009, or would not exist. The data indicate that cooperative premiums do exist; that these premiums are stable; and that they increased in 2009, in spite of surplus conditions.
27. In addition to premiums, often fluid milk processors are being forced to pay cooperatives huge "give-up" charges in order to have access to milk supplies used in their Class I bottling operations. While give-up charges are not publically reported, Professor Bob Cropp at the University of Wisconsin writes that when milk supplies are tight, give-up charges as high as \$5.00/cwt or more have been experienced to get milk released for fluid use by manufacturers.⁸ Economists believe that a contributing factor to the Chicago higher premiums, indicated in Tables 4 and 5, reflects the influence of the give-up charges by manufacturing plants located in the Upper Midwest Federal

⁸ Robert Cropp, "Alternative Order Provisions to Facilitate the Orderly Movement of Milk to Fluid Markets," *Dairy Markets and Policy Issues and Options*, Cornell University, Feb. 1997.

order. The Table 5 data for October 2008, indicating a premium of \$3.48/cwt compared with \$2.80/cwt in April 2008, substantiate this point. Ultimately, the cost of these give-up charges is born by consumers. In addition, huge premiums and give-up charges suggest that they are not being well-served by current Federal order marketwide pooling arrangements. The option of individual handler pooling would substantially reduce incentives for give-up charges and premiums. In other words, it would result in the Class I prices that actually exist to more closely approximate Federal order Class I prices.

28. The fact that Federal orders do not set the price that processors pay for milk, indicates that price instability and competitiveness factors in milk markets are dominated by contesting between dominant cooperatives and processors, not by the insignificant market shares held by producer-handlers who, as a general rule, are not in a position to compete on the basis of price. In addition, the very existence of premiums and give-up charges builds in extra costs on processors for milk, distorts the price surface set by Federal orders, and enhances consumer resistance to paying high prices for conventional, homogeneous, and undifferentiated milk products. As a matter of national Federal order policy, it would be incongruous to discriminate against producer-handlers by forcing them to pay the difference between the uniform Federal order blend price and the Class I price, while ignoring the destabilizing effects and consumer price-enhancing effects of cooperative premiums.

Assertion vs. Reality: Who sets the producer blend price?

29. It is often asserted or implied that the Federal order blend price is the same as the price paid to producers. In this hearing, this is the basis for the petitioner's assertion on page 4 of its petition that the blend price "is the appropriate transfer price for analysis of the regulatory impact on the producer handler plant." The blend price then becomes the justification for the hearing proposal to require producer-handlers to pay

the difference between the Federal order Class I price and the Federal order blend price into the pool.

30. While it is true that Federal order administrators calculate a Federal order blend price, this Federal order blend price is not the price that is actually paid to most producers. Most producers are members of cooperatives who blend and even "reblend" their receipts across Federal order markets to the point that the prices they pay producers have little or no resemblance to the blend price calculated by the Market Administrator for a particular Federal order market.
31. Let's talk real producer blend prices as they are received by producers and appear in Federal order markets. Studies of the mailbox prices paid producers indicate that there is wide variation in the prices paid to farmers, even among producers located in close proximity to one another. As explained by Professor Knoblauch, the longest running and best known of these "Comparing Your Milk Checks" studies has been conducted and published by Cornell University's Dairy Markets and Policy project since 2001.⁹ From these studies, I computed the differences in actual net pay/cwt between the lowest 10% and the highest 10% of the participating New York producers for the months as indicated in Table 6 and Figure 4.
32. It is readily apparent that there is wide variation in the prices received by producers. For example, in September 2008, the highest 10% of the participating New York producers received a net price for their milk of \$19.67/cwt, while the lowest 10% received \$17.41/cwt; a difference of \$2.26/cwt. Table 6 indicates that from August 2001 to September 2008, this price difference ranged from \$2.21/cwt to \$2.86/cwt and averaged \$2.57/cwt. These data clearly indicate that there is substantial variation in the price producers received for milk. More detailed analysis of these data indicates that, while 65% of this variation can be explained by component values and the

⁹Mark Stephenson. "Comparing Your Milk Checks." Cornell University Dairy Markets and Policy Project. Miscellaneous Publications Series, selected years. Available at <http://www.cpdmp.cornell.edu>

producer price differential, 35% is due to other factors of which the largest (\$0.57/cwt) is a residual term referred to as a "premium market value."

33. Also included in Table 6 is the Northeast Federal order blend price as computed and reported by the Market Administrator. While the blend milk price falls between the price received by the lowest and the highest 10% of the producers, the data clearly indicate wide variation in the net producer price around the blend price.

34. What is the implication of this finding for the outcome of this hearing? The NMPF asserts that "*as the market price for producer milk on the market, this (the uniform blend price) is the appropriate transfer price for analysis of the regulatory impact on the producer handler plant.*"¹⁰ The IDFA likewise asserts "*The regulated price actually received by farmers is the uniform or blend price....*"¹¹ If the uniform blend price is not actually received by farmers, how can it be the appropriate transfer price? Based on these false assertions, the NMPF and IDFA conclude that producer-handlers should pay into the pool the difference between the uniform blend price and the Class I price. The NMPF's and IDFA's assertion is false because the uniform blend price clearly is not the market price and is not actually received by farmers. The fact is that there is a very wide range of market prices received by producers.

35. The only real and appropriate transfer price is the producer-handler's cost of producing milk, which, as we have seen from the testimony of Professor Knoblauch and verified by my AIDA member survey, is substantially higher than the uniform blend price calculated by the Federal order Market Administrators.

¹⁰ Proposal by the National Milk Producers Federation to Amend Federal Milk Marketing Orders to Expand the Size Limit For Exempt Handlers and Delete the Producer-Handler Provision, January 30, 2009, p. 4.

¹¹ Proposal of the International Dairy Foods Association to Amend Federal Milk Marketing Orders to Eliminate the Producer-Handler Exemption and to Increase the Size Limit for Exempt Handlers, p. 2.

Assertion vs. Reality: Are producer-handlers a disorderly marketing force?

36. Deciding whether there is disorderly marketing requires an analysis of the economics of the marketplace for milk. In fact, defining what disorderly marketing is not, is as important and illuminating as defining what it is:

- Disorderly marketing is not the same as marketing. Marketing is delivering the right product, in the right form, in the right place, at the right time, and at the right price. Just because producer-handlers are marketing milk products does not mean that they are disorderly.
- Disorderly marketing is not the same as niche marketing. Niche marketing is delivering the right product, in the right form, in the right place, at the right time, and at the right price where the product, form, or place is unconventional and limited in scope. Just because producer-handlers are niche marketing milk products does not mean that they are disorderly. This is the case because niche marketing firms, such as the AIDA members, generally sell their products at prices that are substantially higher than that of conventional homogeneous milk.
- Disorderly marketing is not the same as private labeling. If it were, then many of the IDFA members would be engaged in disorderly marketing. The fact that a producer-handler private labels organic milk does not mean that it is engaged in disorderly marketing. Rather it is niche marketing within the private label category.
- Disorderly marketing is not the same as being competitive. Being competitive involves being able to sell the products you produce and yet be profitable.

Being competitive without government intervention characterizes American capitalism, which we are now in serious danger of losing.

37. Now turning to what is disorderly marketing: At the time that the AMAA was enacted, the orderly marketing emphasis was "to establish and maintain an orderly flow of products to markets...in the interest of consumers and producers...to avoid unreasonable fluctuations in supplies and prices."¹²

38. In the 1930s, producer marketing was highly disorganized and lacked orderliness. The 1962 Nourse Report to the Secretary of Agriculture, which in the past was often used for guidance in Federal order decisions, described the situation as follows: *"Dairy farmers attributed their difficulties primarily to three factors: (a) they were dealing individually as small producers of a highly perishable product in a market generally dominated by a few large buying units; (b) their milk, even though it met minimum market standards, varied considerably in quality, and in quantity it was subject to wide seasonal variations; (c) these conditions made them vulnerable to severe price cuts by dealers at flush seasons (or even partial or temporary loss of market outlet), and enabled dealers to reap most of the profit from supply shortages while the farmers had to bear most of the penalties of market surpluses."*¹³

39. This is a very different situation than exists today where our milk markets are dominated by a few very large cooperatives, who, as we have seen, are able to extract premiums from sometimes equally large processors, who effectively control the allocation of shelf space in supermarkets.

40. While the 1962 Nourse Report credited Federal orders with having restored orderly marketing, it also recognized that *"...complete and perfect orderliness in the disposal of fluid milk in all 81 order markets has not been achieved. That would not*

¹² Agriculture Marketing Agreement Act of 1937, as amended, Section 2 (4).

¹³ Federal Order Study Committee, *Report to the Secretary*, USDA, Washington, D.C., April 1962, p I-II.

be possible, or indeed desirable, in a dynamic enterprise market..."¹⁴ The Report also recognized the changes that had occurred and were occurring in the milk industry. In a concluding section titled, "Are There Still Elements of Disorder?" the Nourse Report states: "*Another element of disorder in price and production relationships results from the negotiation of premiums above established Class I prices in a number of markets. Such premiums introduce an element of instability both within the marketing area affected and in inter market price relationships.*"¹⁵

41. The 1972 Report of the Milk Pricing Advisory Committee, titled, *Milk Pricing Policy and Procedures: Part I: The Milk Pricing Problem* to USDA's Assistant Secretary of Agriculture in charge of Federal order program, picked up on the concern expressed by the Nourse Report that cooperative premiums and reblending were not only a source of disorderly marketing conditions but also made it difficult for the Secretary to achieve the objectives of the Agriculture Marketing Agreement Act. It concludes that: "*Reblending of returns under a number of different orders can result in blend prices to producers that differ materially from blend prices established under the orders involved.... Thus the influence of the structure of prices resulting from the Secretary's decisions may be altered, making it more difficult to achieve the objectives of the Act.*"¹⁶

42. The 1962 Nourse Report to the Secretary of Agriculture painstakingly defined the orderly marketing objective of Federal orders to include economic terms such as equalizing the market power of buyers and sellers, assuring adequate and dependable milk supplies, maintaining economic order in the industry, insuring equitable treatment of all parties, and maximum freedom of trade with proper protection against loss of outlets.¹⁷ The emphasis here is on maintaining a regulatory

¹⁴ Ibid. p. III-10.

¹⁵ Ibid, p. III-16.

¹⁶ Milk Pricing Advisory Committee, "*Milk Pricing Policy and Procedures: Part I: the Milk Pricing Problem,*" USDA, March 1972, p.43.

¹⁷ Federal Order Study Committee, pp. I-21-22.

balance among all parties in the marketplace and treating all parties equitably, and by implication, not necessarily equally. Certainly the Nourse report concept of orderliness would not support regulations that put minority independent producer-handler interests at a competitive disadvantage. *The Milk Pricing Advisory Committee expands on this point by stating that "Orderliness...implies protecting the rights of producers to choose their market outlet, free of coercion and unreasonable barriers to market entry."*¹⁸ Surely a producer-handler falls within the definition of a producer.

43. This review of the origins of disorderliness, the definition of orderly marketing as contained in the Agriculture Marketing Agreement Act of 1937, as amended, and of its adaptation to the changing structure of the milk industry has particular relevance to the outcome of this hearing in the following ways:
44. Never once in either the Nourse or Milk Pricing Advisory Committee Reports was there a mention of producer-handlers as a source of disorderly marketing. Available Dairy Division data would suggest that when the Nourse report was written in 1962, there were about 370 producer-handlers and in 1972 about 360. Today there are 37. In 1962 and in 1972, most of these producers-handlers were niche marketing firms delivering milk to homes and struggling to compete and to survive. Today, most producer-handlers are also niche marketing firms and struggling to compete in much more complex markets and to survive. Yes, some of today's producer-handlers are larger, but so are both cooperatives and conventional processors.
45. Is it just an issue of size? I suspect that for the NMPF and IDFA it is an issue of size, and it is also an issue of market control. This market control began to evolve at the time the Nourse and Milk Pricing Advisory Committee Reports were being written. These are the same pressures that surround the producer-handler issue being discussed in this hearing.

¹⁸ Milk Pricing Advisory Committee, p.4.

46. But the size issue is substantially different than the NMPF and IDFA would like to have you believe. It can readily be determined from Table 1 that in 1969 there were 343 producers for every producer-handler; in 2008 there were 1,018 producers for every producer-handler. In 1969 there were 89 producers for every handler; in 2008 there were 143 producers for every handler. In 1969 there were 3.9 handlers for every producer-handler; in 2008 there were 7.1 handlers for every producer-handler. The conclusion I draw from these data is that by every one of these measures, the position of producer-handlers is slipping. The effect of the regulations proposed by the NMPF and IDFA is to either deny the existence of producer-handlers or to put them out of existence. As a matter of national policy, it makes no sense to eliminate opportunities for producers of all sizes to create independent viable dairy businesses .

47. It is impossible to reason that the existing producer-handler exemption, with 1.46% of the fluid milk market and an impact of only about a penny/cwt would disrupt the flow of products to market, deny consumers an adequate supply of milk, or cause unreasonable fluctuations in the milk supply and in prices.

Assertion vs. Reality: Do producer-handlers shift balancing costs?

49. First, it needs to be recognized that cooperative balancing is not just a service to the market. Balancing is an integral part of the cooperatives' marketing strategy. That marketing strategy includes the fact that cooperatives get their market power from performing the balancing function. Therefore, balancing is a much bigger benefit to cooperatives than it is a cost to them. The benefit is that it gives them control of the milk supply, which allows them to negotiate full supply contracts. Without balancing, cooperatives could not negotiate either full supply contracts or premiums.

50. Because cooperatives perform the balancing function, producers, who are not cooperative members, may not have an outlet for their milk. Because cooperatives perform the balancing function, large processors, who do not sign full supply contracts and submit to premium charges, may not have a regular milk supply as needed.
51. By similar reasoning, cooperatives desire to control the milk supply of producer-handlers. If they cannot do it overtly, they desire to do it through regulation, which would result if producer-handlers are eliminated. That is, producer-handlers are not cooperative members and will never be as long as they are producer-handlers. Through their proposal, however, the cooperative members of the NMPF greatly enhance their chances of gaining control of the producer-handlers' milk supply by putting them out of the business of producing milk, processing milk, or both. This is what appears to be happening in the Pacific Northwest Federal Order.
52. The added advantages that cooperatives gain from balancing involve realizing economies from procurement, capturing economies from producing manufactured dairy products, and profiting from marketing manufactured dairy products.
53. Conventional processors choose not to balance because cooperatives' control over the milk supply means that they have no alternative but to use the cooperative as a source of supply. Those that attempt to maintain an independent producer source of supply, experience higher costs in maintaining an independent producer source of supply and consistent pressure from cooperatives for full supply contracts. Most conventional processors have given in to that pressure.
54. One of the contentions in this hearing is that producer-handlers get a free ride at the expense of cooperatives who perform the balancing function. Responding to this contention requires a look at the facts on both the demand and the supply sides.

55. On the demand side, producer-handlers are effectively prohibited, by Federal Order regulations, from purchasing significant quantities of raw milk, if the regulations permit any purchases of raw milk at all.
56. On the supply side, no data have been produced by the Dairy Programs to indicate the quantities of milk, in excess of their own use, that is put on the market. Based on data that I obtained from 6 producer-handler AIDA members, in the high sales month, only 13% of production was sold on the raw milk market. Most of this milk was sold at the lowest use Class price and carried a large handling charge. Based on the Federal order milk deliveries and producer-handler sales given in Table 1, the 13% of raw milk sales by producer-handlers would be 0.64% (6 tenths of 1%) of the 2008 milk deliveries.
57. The factual conclusion is clear: producer-handlers do not rely on the regulated market to balance their milk supplies. Production levels are managed to correspond to their product sales plus a sufficient surplus capacity to ensure adequate milk for bottling. Producer-handlers bear the burden of selling their small surpluses on the market at the most advantageous price available, which is almost always at a loss.

Evaluation of the proposed regulatory options

58. AIDA has offered four alternative proposals for consideration at this hearing. USDA noticed two of those proposals related to the treatment of own-farm produced milk as a single alternative. But it is the intention of AIDA that these alternatives be treated as distinct proposals.
59. The first alternative AIDA proposal, proposal number 23, would exempt the own-farm produced milk of any handler from inclusion in the handler's computation of milk value. This alternative would permit any handler who utilizes the milk from

farms owned and controlled by the handler to exempt those volumes from regulation. The handler would still be treated as a fully-regulated handler or partially-regulated handler, pursuant to the terms of the applicable marketing order. But when calculating the handler's producer settlement fund obligations, the handler would down-allocate the volumes of own-farm produced milk to the handler's lowest value use. This alternative would serve two purposes:

- First, it serves as an alternative to the draconian and unsupported proposals from NMPF and IDFA to eliminate producer-handler status in all marketing areas. While proposal 23 would eliminate the need to continue designating producer-handlers as such, it still requires that those handlers who utilize own-farm produced milk demonstrate to the satisfaction of the Market Administrator that the processing facilities and production facilities are under the same ownership and control of the same entity. AIDA intends that the Market Administrator be vested with the authority to conduct such audits of the handler's facilities and record to ensure that there is commonality of ownership and control of those facilities used to produce milk claimed as exempt. It would remain the burden of the handler to demonstrate entitlement to this exemption, as is currently the case with producer-handler designation.
- Second, proposal 23 would permit the handler with own-farm production to purchase milk from pool sources. But all such purchased would be up-allocated to the handler's highest value use, ensuring that pool producers receive the full benefit of all Class I markets served by the handler's purchase of milk from pool producers.

60. What economic impacts would Proposal 23 have on the market for milk? Proposal 23 would allow producer-handlers to

continue to exist and compete in an orderly manner. It would allow producers and cooperatives to benefit from producer-handlers' sales in excess of their production. This change in Federal order regulatory policy would reduce incentives for surplus production.

61. Proposal 23 was also noticed with a second provision, which was submitted by AIDA following USDA's pre-hearing information session. This provision, which permits a handler with own-farm production to elect partially-regulated distributing plant status for the volumes of its own-farm produced milk, was intended as an alternative to the full exemption of own-farm produced milk. This proposal, which AIDA intends to be treated as a distinct proposal, would allow those handlers with own-farm production to treat the volumes of its own-farm produced milk in the same manner that USDA currently permits partially regulated handlers to treat their milk purchases. This proposal includes language intended to ensure that the handler with own-farm production, markets its products at or above its costs, which would be the applicable Class I price plus costs of manufacturing, processing, handling, marketing, and delivery. The handler with own-farm production would, as to the volumes of own-farm handled milk, place such handlers on the same regulatory footing as partially-regulated handlers, who currently distribute milk in any of the Federal milk marketing areas. As to volumes of milk acquired from sources other than the handler's own farm, those volumes would be treated according to the handler's regulatory status as a regulated or partially regulated plant.

62. What economic impacts would this second provision of Proposal 23 have on the market for milk? This provision of Proposal 23 would allow producer-handlers to elect to be a partially regulated plant for milk that it produces. By treating own-farm production in the same manner as USDA currently permits partially regulated plants to treat their milk purchases, this provision allows producer-handlers to continue to exist and compete in an orderly manner. It would allow producers and

cooperatives to benefit from producer-handlers' sales in excess of their production. This change in Federal order regulatory policy would also reduce incentives for surplus production.

63. Proposal 24 is intended for adoption only if USDA adopts restrictions on the volumes of producer-handlers. If USDA eliminates the designation of producer-handler, it is intended that Proposal 24 be incorporated into the marketing orders to have the same effect as if incorporated into a producer-handler definition that contains a volume limitation. Under proposal 24, a producer-handler who disposes of its milk products in retail outlets controlled by the handler or sales direct to the consumer by the handler, would be exempted on those volumes. The rationale for this proposal is that under any legitimate construct, such sales are entirely controlled by the handler and do not have an impact on the regulated pool. Handlers who control the milk supply chain from production through processing and through to its final disposition, operate autonomously from the orders. AIDA intends that this exemption be liberally construed. For example, if a producer-handler utilizes independent contractors to complete home delivery of its products, but it is the handler who is responsible for the maintenance of those home delivery customers, then the exemption should apply, even if title to the product may pass to the intermediate contractor before delivery to the consumer. In this setting, it is the handler who maintains principal responsibility for the retail sale.

64. What economic impacts would Proposal 24 have on the market for milk? Proposal 24 would restrict producer-handlers to outlets that they control. In this sense, it is considerably more restrictive than the current policy. It would allow those producer-handlers that sell directly to consumers to continue to exist and compete in an orderly manner.

65. Finally, AIDA proposal 25 would establish individual handler pooling in all marketing areas, as opposed to the current

marketwide pools. I will subsequently explain why there are significant economic benefits to individual handler pools over marketwide pools. But here, I want to explain the intent behind the AIDA proposal.

66. The regulatory language in the notice of hearing would be effective in creating individual handler pools. The language was submitted to convey AIDA's intentions and to do so within the framework of the current regulatory language. In addition to the changes that have been noticed, there are conforming changes to the marketing orders that would be required to fully implement individual handler pools. Perhaps the most significant would be the elimination of provisions dealing with pool qualification. As I explain later in my testimony, one of the principal benefits of individual handler pools is that the producers entitled to share in the pooled price are immediately identified by delivering their milk to the plant. Other conforming changes may be required, including the determination of whether a distinction between pool plants and partially regulated distributing plants needs to be modified. Those specifics are best left to those who formulate Federal order language. For example, USDA could revert to order language similar to that utilized in previous individual handler pools, such as the ~~Federal~~ for Upper Peninsula Marketing Order.

67. Under individual handler pools, perhaps the single largest change would be that manufacturing plants would not necessarily be subject to regulation. Of course, that is the case today. But those plants generally have an incentive to participate in the pool, since under marketwide pooling of returns, their milk purchases are subsidized by drawing money from the producer settlement fund. This permits producers shipping their milk to manufacturing plants to receive more for their milk than the manufacturing plant actually pays for the milk. In essence, pool distributing plants (and the producers supplying them) subsidize the production of Class III and IV products. But when the USDA minimum prices for Class III and

IV milk rise rapidly, a price inversion occurs. This occurs because the USDA price formulas that establish the prices for Class I milk lag manufacturing class prices by two months. When a price inversion occurs, manufacturing plants would pay into the producer settlement fund rather than draw funds from it. So in those instances, manufacturing plants elect to not participate in the pool. This opportunistic depooling has negative effects on the payments to producers who are required to pool their milk. These effects have been described in several hearings held by USDA to address depooling and need not be repeated here. Information on the extent of depooling indicates that efforts to address depooling have not been entirely successful.

68. The benefits of individual handler pools include:

- First, manufacturing plants, unless they affiliate with a distributing plant, will not pool their milk. That is no different than under the current marketwide pooling scenario, where manufacturing plants in many instances elect to pool only when it is economically advantageous to do so.
- Second, the negative effects of opportunistic depooling, which continue to damage producers to the tune of millions and millions of dollars each year, will cease.
- Third, and perhaps most important, milk in higher use Classes will move to the locations where it is needed, thus eliminating the need for call provisions and related regulatory incentives.
- Fourth, and closely related to the third benefit, all Class I revenues are channeled to those producers who are actually serving the Class I market.

- Fifth, there is little incentive for the supply area to expand beyond that which is sufficient to serve the needs of the market, thus saving transportation costs.

69. Identifying those producers who serve the marketing area is a critical function of any marketing order. The fact that milk is able and willing to depool suggests that such milk is not ready or necessary to serve the needs of the fluid market. As such, it should not necessarily be entitled to receive the benefits of the order. The Class I utilization of the entire FMMO system now stands at approximately 39%.¹⁹ This means that under the current marketwide pools, more than two times the amount of milk needed to serve the fluid market is receiving the benefits of the fluid market. The intent of the FMMO system should not be to allow all milk to be pooled, but to ensure that the consuming public has access to a sufficient supply of fluid milk at reasonable prices. That goal can and would be accomplished by individual handler pools.

70. The proponents of marketwide pooling will likely assert that individual handler pooling is a move away from equal treatment of producers. However, I have clearly shown with data that producers do not now receive equal prices. Even under individual handler pooling, a cooperative will have the option of continuing to blend its returns among its members.

71. What economic impacts would Proposal 25 have on the market for milk? Proposal 25 would treat producer-handlers the same as any other handler in that it would be its own regulated pool under the order. It would allow producer-handlers to buy milk from other producers at no less than its own blend price based on its utilization as calculated by the Market Administrator. In addition to the benefits discussed previously, it would allow all producer-handlers to continue to exist and compete in an orderly manner. It would allow producers and cooperatives to

¹⁹ *Dairy Market News*, April 3, 2009, p. 14.

benefit from producer-handlers' sales in excess of their production. It would reduce incentives for surplus production.

Impacts of an unfavorable producer-handler regulatory decision on small business

72. It is important to recognize that an unfavorable decision to producer-handlers from this hearing would have highly negative effects. These negative effects would not only be on producer-handlers as small business firms, but will extend to consumers who rely on producer-handlers for their milk supply and on the broader milk market. At the risk of repetition, let me summarize by describing the likely sequence of negative events:

- First, producer-handlers will be put out of the business of producing milk, processing milk, or both.
- Some portion of the bottling business will go to large conventional processors, and over time all of it will likely end up there.
- Substantially all of the milk volume will be handled by the dominant cooperative.
- Employment will decline, particularly in rural areas where most of these firms are located.
- Milk consumption will continue to decline as the innovations fostered by smaller business firms are lost.

Concluding remarks

73. In considering whether a national policy change eliminating the historic producer-handler status is justified, it is essential for the

USDA to fully consider the characteristics of the U.S. milk market today. Class I milk is no longer the dominant milk usage in the national market. From Table 1 it can be determined that fluid utilization has shrunk from a national average 64.3% in 1969 to a national average 38.7% in 2008.²⁰ Based on FAPRI data, it could decline to 34.7% in 2017.²¹ In its narrative on the dairy outlook and situation, FAPRI notes that "*Fluid milk consumption is expected to continue to decline over the baseline.*" FAPRI then concludes that "*Changes in fluid milk consumption are having smaller effects on producer milk prices because a smaller percentage of milk production is used for fluid purposes.*"²² The data equivalently indicates that cows' milk faces stiff competition from fluid milk substitutes, whether it be soymilk, goat milk, juices fortified with calcium, other juices, soft drinks, teas, coffees, or water in its proliferating number of forms. A regulatory system that fails to account for that fact and continues to promote concentration on a shrinking fluid market share serves no-one: not producers, not cooperatives, not processors, not producer-handlers, and not consumers.

74. It is time that the milk industry and the firms that represent it focus on the reality of today's milk markets. Milk is no longer a homogeneous commodity and should not be regulated as such. Producer-handlers are an important part of the milk industry, not in terms of the volume and share of the market, but in terms of the products, innovations, and customers they serve. They are not a threat to anyone and should not be treated as such. They are producers who have chosen to innovate and also be processors. They have expanded the market for milk and its products. The members of AIDA have proposed a set of viable Federal order options for allowing these firms to survive.

75. Finally, the AIDA proposals are designed to move national dairy policy in the direction of achieving the type of equitable

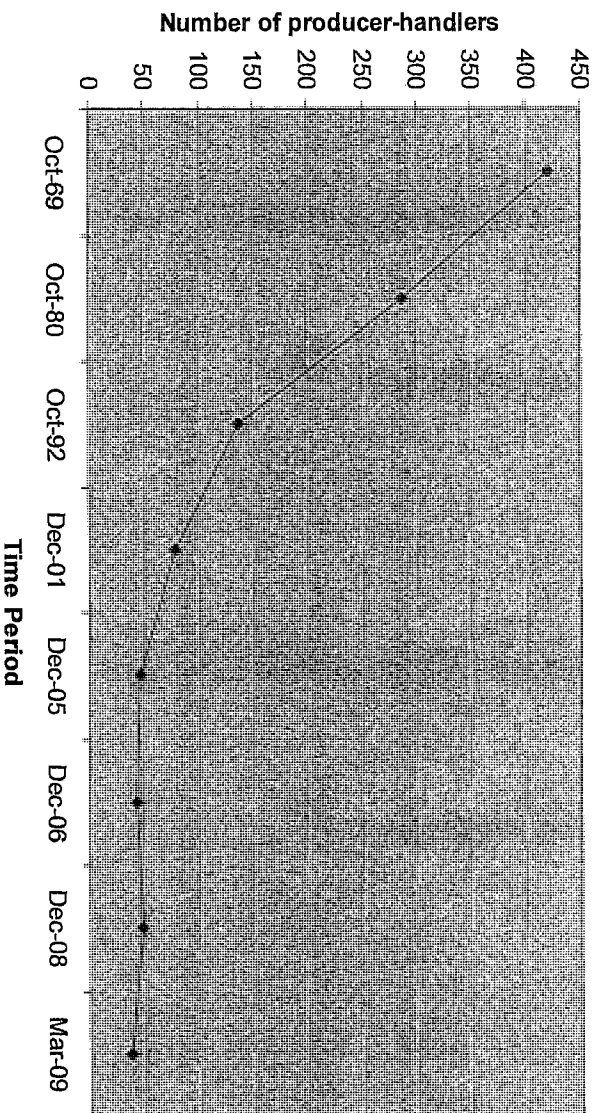
²⁰ Based on Table 1 2008 deliveries and sales. Federal Order Statistics indicates --% in 1969 and --% in 2008.

²¹ Based on a FAPRI projected 9.4% increase in production and a 5.3% decrease in per capita consumption, and a 8.5% increase in population.

²² FAPRI 2009 U.S. and World Outlook, p.130, available at <http://www.fapri.iastate.edu/outlook/2009>

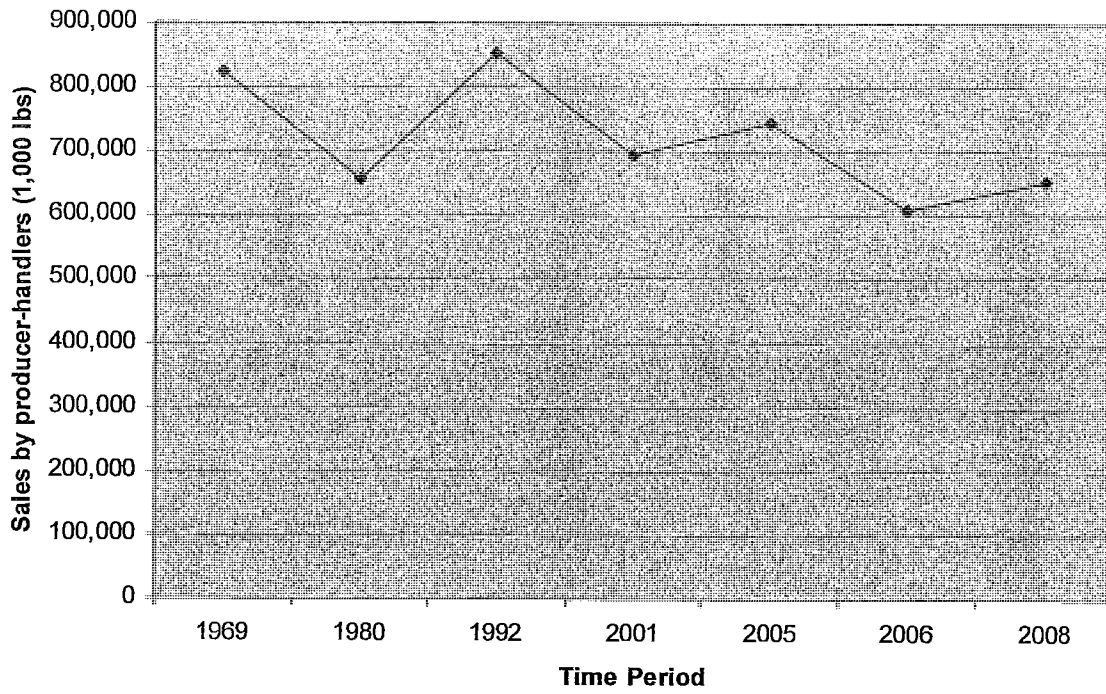
competitive dairy industry balance between producer-handlers, processors, and cooperatives that was envisioned by the Nourse report. In fact, this proposal by NMPF and IDFA has nothing to do with reducing disorderly marketing. For the NMPF, it is designed to prevent producers from leaving cooperatives to operate processing plants. Therefore, an otherwise hidden effect of the NMPF proposal is to severely limit the value-added options available to milk producers. For IDFA it provides a means of reducing the number of competitors and, therefore, competition within the dairy industry. Any of the options proposed by AIDA makes more economic sense as national Federal order policy than the alternative presented by the NMPF and IDFA petitioners, because it retains milk producers' options for the future and allows producer-handlers to survive and continue to build the market for milk.

Figure 1. Number of producer-handlers operating in Federal milk marketing orders, October 1969-October 1992 and December 2001 - 2008, and March 2009



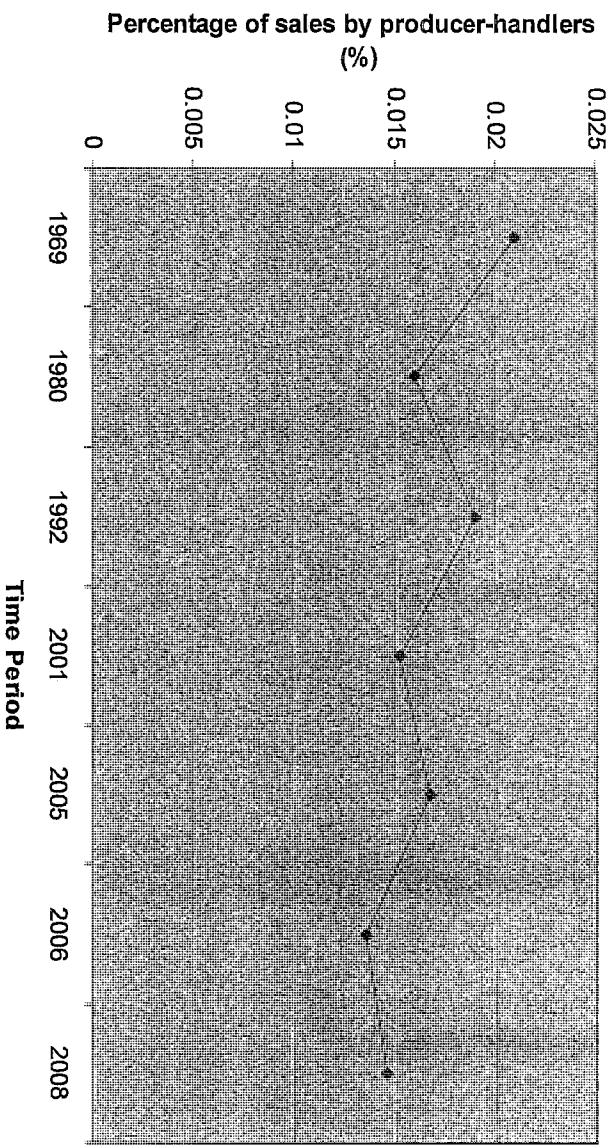
Sources: Dairy Programs/USDA/AMS, Information on Producer-Handlers Operating in Federal Milk Order Marketing Areas, Selected Time Periods and Producer-Handler Regulatory Status, 2005-2009, as posted.

Figure 2. Sales by producer-handlers, 1969 - 2008



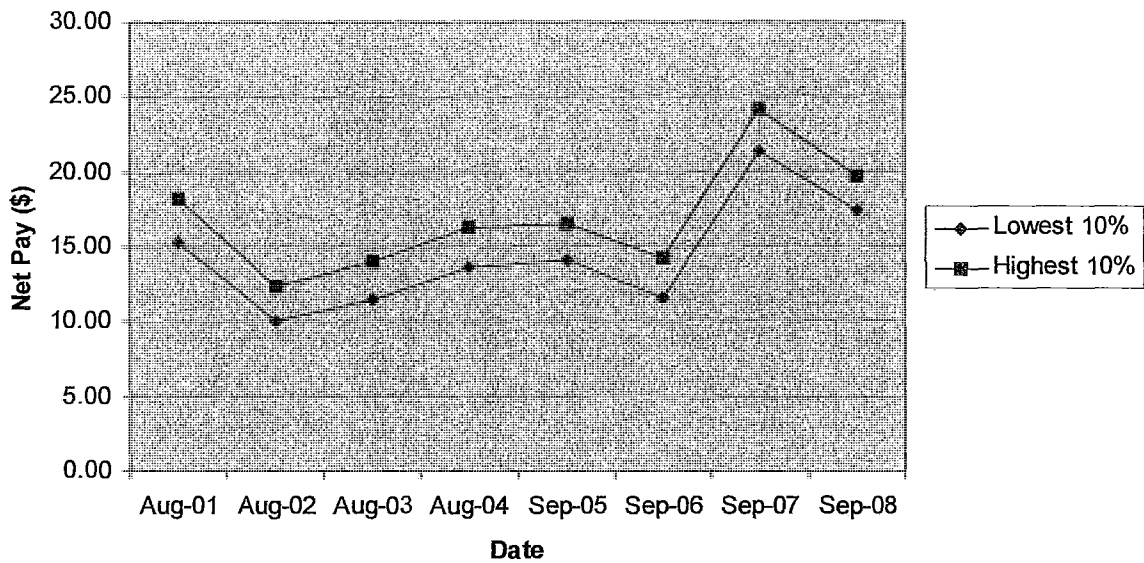
Source: Table 1

Figure 3. Percent of sales by producer-handlers in Federal milk marketing orders, 1969 - 2008



Source: Table 1

Figure 4: Difference in net pay price to producers in New York, August 2001-August 2004, September 2005-September 2008



Sources: Mark Stephenson, "Comparing Your Milk Checks," Cornell University Dairy Markets and Policy Project, Miscellaneous Publications Series, selected years. Available at <http://www.cpdmp.cornell.edu>

Table 1. Comparison of Annual Average Size and Growth of Producers, Handlers, and Producer-Handlers, Selected Years

Year	Producers				Handlers			Class I Utilization or Sales Volume	Producer Handlers				
	Number	Deliveries	Average	Growth	Number	Average	Growth		Number	Percent PH Sales	PH Sales Volume	Average	Growth
1969	144,275	61,026,000,000	422,984		1628	37,485,258		39,219,000,000	421	0.021	823,599,000	1,956,292	
1980	117,480	83,998,000,000	714,998		1091	76,991,751		41,034,000,000	287	0.016	656,544,000	2,287,610	
1992	97,803	107,947,000,000	1,103,719		698	154,651,862		44,914,000,000	137	0.019	853,366,000	6,228,949	
2001	66,423	120,223,000,000	1,809,960	4.28	350	343,494,286	9.16	45,791,600,000	79	0.015195	695,800,000	8,807,595	4.50
2005	53,036	114,682,000,000	2,162,343	5.11	302	379,741,722	10.13	44,424,500,000	46	0.016759	744,500,000	16,184,783	8.27
2006	52,725	120,618,000,000	2,287,681	5.41	314	384,133,758	10.25	45,175,400,000	43	0.013507	610,200,000	14,190,698	7.25
2008	47,859	115,867,400,000	2,421,016	5.72	333	347,950,150	9.28	44,814,500,000	47	0.014600	654,300,000	13,921,277	7.12
2009									37				

Sources: Data on producers, handlers, deliveries and Class I utilization (1962-1992) were obtained from Dairy Programs/AMS/USDA, Table 2, Measures of Growth in Federal Milk Order Markets, years 1947-2006 and Measures of Growth in Federal Milk Order Markets, Selected Years, 1947-2008 in Dairy Market News March 30-April 3, 2009, p. 14.

Data on number and percent producer-handler sales (1969-1992) were from Dairy Programs/AMS/USDA, Information on Producer-Handlers Operating in Federal Milk Order Marketing Areas, Selected Time Periods, as posted.

Data on producer-handler sales for 1969-1992 were estimated based on the Class I utilization and percent utilization by producer-handlers.

Data on sales (2001-2008) were from Dairy Programs/AMS/USDA table titled Packaged Disposition of Class I Milk Products by Handlers Regulated Under Federal Milk Orders, by Product, by Order, 2000-2008, posted April 27, 2009.

Data on producer-handler sales (2001-2008) were from Dairy Programs/AMS/USDA table titled Sales of Fluid Milk Products in Federal Milk Order Marketing Areas, by Producer-Handler, by Order, 2000-2008, posted April 27, 2009.

Data on PH numbers are for December 2005-2009 were from Dairy Programs/AMS/USDA tables titled Producer Handler Regulatory Status, 2005-2009, posted May 1, 2009. The 2009 data are from the same data set but for March only.

Table 2. Federal Order Plant Size Comparison, May 2008

Type of Plant	Volume (pounds/month)		
	Less than 150,000	150,000- 2,000,000	Over 2,000,000
Producer-Handler	16	24	5
Exempt Plants	92	4	0
Regulated Pool Distributing Plants	12	39	210

Source: Federal Milk Order Small Plant Structure Information for May 2008, compiled by the Dairy Programs/AMS/USDA, appended to NMPF petition, posted May 1, 2009.

Table 3. Class I Cooperative Premiums in Selected Cities, Simple Average, by Year 1999-2008

Year	Price/cwt (dollars)		
	Announced Cooperative Class I	FO Class I	Premuim
1999	17.20	16.09	1.11
2000	15.31	14.03	1.28
2001	17.90	16.75	1.15
2002	14.94	13.50	1.44
2003	15.34	13.87	1.47
2004	19.01	17.51	1.50
2005	18.51	16.93	1.58
2006	16.24	14.41	1.83
2007	22.48	20.67	1.81
2008	23.08	20.60	2.48

Source: Dairy Market Statistics Annual Summary, 1999-2007, tables titled Minimum Federal Order and Announced Cooperative Class I Prices in Selected Cites, 2008 data from Dairy Market News, January 12-14, 2009, p. 14.

Table 4. Class I Premiums, Selected Cities, April 2001-2009

Price (dollars)					Price (dollars)					Price (dollars)					
Announced		Price			Announced		Price			Announced		Price			
City and Date	Cooperative Class I	FO Class I	Premium	City and Date	Cooperative Class I	FO Class I	Premium	City and Date	Cooperative Class I	FO Class I	Premium	City and Date	Cooperative Class I	FO Class I	Premium
Atlanta					Dallas					Philadelphia					
2001	17.62	16.54	1.08	2001	16.99	16.44	0.55	2001	18.36	16.49	1.87	2001	17.74	15.54	2.20
2002	16.25	14.57	1.68	2002	15.90	14.47	1.43	2002	16.39	14.52	1.87	2002	15.57	13.57	2.00
2003	15.00	12.74	2.26	2003	14.04	12.64	1.40	2003	14.44	12.69	1.75	2003	13.64	11.74	1.90
2004	18.27	16.74	1.53	2004	17.64	16.64	1.00	2004	18.54	16.69	1.85	2004	17.74	15.74	2.00
2005	18.84	17.23	1.61	2005	18.00	17.13	0.87	2005	19.16	17.18	1.98	2005	18.16	16.23	1.93
2006	16.91	14.32	2.59	2006	16.07	14.22	1.85	2006	16.37	14.27	2.10	2006	15.57	13.32	2.25
2007	20.66	18.10	2.56	2007	19.25	18.00	1.25	2007	20.45	18.05	2.40	2007	19.71	17.10	2.61
2008	25.49	21.71	3.78	2008	22.49	21.61	0.88	2008	24.66	21.66	3.00	2008	24.16	20.71	3.45
2009	16.92	14.16	2.76	2009	15.30	13.36	1.94	2009	16.08	13.41	2.67	2009	15.53	12.46	3.07
Average			2.21	Average			1.24	Average			2.17	Average			2.38
Boston					Denver					Pittsburg					
2001	17.17	16.69	0.48	2001	16.69	15.99	0.70	2001	17.74	15.54	2.20				
2002	16.32	14.72	1.60	2002	14.87	14.02	0.85	2002	15.57	13.57	2.00				
2003	14.29	12.89	1.40	2003	13.04	12.19	0.85	2003	13.64	11.74	1.90				
2004	18.59	16.89	1.70	2004	17.04	16.19	0.85	2004	17.74	15.74	2.00				
2005	19.08	17.38	1.70	2005	17.53	16.68	0.85	2005	18.16	16.23	1.93				
2006	15.97	14.47	1.50	2006	14.62	13.77	0.85	2006	15.57	13.32	2.25				
2007	19.75	18.25	1.50	2007	18.75	17.55	1.20	2007	19.71	17.10	2.61				
2008	23.36	21.86	1.50	2008	22.36	21.16	1.20	2008	24.16	20.71	3.45				
2009	15.11	13.61	1.50	2009	14.85	12.91	1.94	2009	15.53	12.46	3.07				
Average			1.43	Average			1.03	Average			2.38				
Chicago					Kansas City					Phoenix					
2001	16.86	15.24	1.62	2001	16.40	15.44	0.96	2001	15.94	15.79	0.15				
2002	15.22	13.27	1.95	2002	15.00	13.47	1.53	2002	13.97	13.82	0.15				
2003	13.55	11.44	2.11	2003	13.43	11.64	1.79	2003	12.14	11.99	0.15				
2004	17.69	15.44	2.25	2004	16.82	15.64	1.18	2004	16.14	15.99	0.15				
2005	18.43	15.93	2.50	2005	17.35	16.13	1.22	2005	16.63	16.48	0.15				
2006	15.26	13.02	2.24	2006	14.96	13.22	1.74	2006	13.72	13.57	0.15				
2007	19.06	16.80	2.26	2007	18.25	17.00	1.25	2007	17.66	17.35	0.31				
2008	23.21	20.41	2.80	2008	22.84	20.61	2.23	2008	21.46	20.96	0.50				
2009	15.30	12.16	3.14	2009	14.97	12.36	2.61	2009	13.21	12.71	0.50				
Average			2.32	Average			1.61	Average			0.25				
Cincinnati					Oklahoma City					Seattle					
2001	17.37	15.64	1.73	2001	16.84	16.04	0.80	2001	15.76	15.34	0.42				
2002	15.27	13.67	1.60	2002	15.50	14.07	1.43	2002	13.79	13.37	0.42				
2003	13.79	11.84	1.95	2003	13.89	12.24	1.65	2003	11.96	11.54	0.42				
2004	17.51	15.84	1.67	2004	17.29	16.24	1.05	2004	15.96	15.54	0.42				
2005	18.04	16.33	1.71	2005	17.65	16.73	0.92	2005	16.45	16.03	0.42				
2006	15.28	13.42	1.86	2006	15.57	13.82	1.75	2006	13.54	13.12	0.42				
2007	19.20	17.20	2.00	2007	18.35	17.60	0.75	2007	17.55	16.90	0.65				
2008	24.01	20.81	3.20	2008	22.96	21.21	1.75	2008	21.24	20.51	0.73				
2009	15.56	12.56	3.00	2009	15.68	12.96	2.72	2009	13.04	12.26	0.78				
Average			2.08	Average			1.42	Average			0.52				

Source: Dairy Market Statistics Weekly Reports, 2001-2009, tables titled Minimum Federal order and announced cooperative Class I prices in selected cities,

Table 5. Class I Premiums, Selected Cities, October 2001-2009

City and Date	Price (dollars)			Premium	City and Date	Price (dollars)			Premium	City and Date	Price (dollars)			Premium
	Announced	FO Class I				Announced	FO Class I				Announced	FO Class I		
Atlanta					Dallas					Philadelphia				
2001	19.81	19.03	0.78		2001	19.05	18.93	0.12		2001	20.55	18.98	1.57	
2002	18.18	13.25	4.93		2002	14.45	13.15	1.30		2002	15.07	13.20	1.87	
2003	18.53	17.37	1.16		2003	17.90	17.27	0.63		2003	19.17	17.32	1.85	
2004	18.91	17.88	1.03		2004	18.28	17.78	0.50		2004	19.75	17.83	1.92	
2005	19.30	17.37	1.93		2005	18.20	17.27	0.93		2005	19.42	17.32	2.10	
2006	18.19	15.52	2.67		2006	16.82	15.42	1.40		2006	17.77	15.47	2.30	
2007	27.53	24.69	2.84		2007	25.59	24.59	1.00		2007	26.91	24.64	2.27	
2008	22.73	19.33	3.40		2008	21.23	18.53	2.70		2008	21.88	18.58	3.30	
2009	16.92	14.16	2.76		2009	15.30	13.36	1.94		2009	16.08	13.41	2.67	
Average			2.39		Average			1.17		Average			2.21	
Boston					Denver					Pittsburg				
2001	20.78	19.18	1.60		2001	19.18	18.48	0.70		2001	19.93	18.03	1.90	
2002	14.80	13.40	1.40		2002	13.55	12.70	0.85		2002	14.20	12.25	1.95	
2003	19.22	17.52	1.70		2003	17.67	16.82	0.85		2003	18.32	16.37	1.95	
2004	19.73	18.03	1.70		2004	18.18	17.33	0.85		2004	18.88	16.88	2.00	
2005	19.02	17.52	1.50		2005	17.67	16.82	0.85		2005	18.42	16.37	2.05	
2006	17.17	15.67	1.50		2006	15.82	14.97	0.85		2006	16.97	14.52	2.45	
2007	26.34	24.84	1.50		2007	25.04	24.14	0.90		2007	26.21	23.69	2.52	
2008	20.28	18.78	1.50		2008	19.51	18.08	1.43		2008	21.18	17.63	3.55	
2009	15.11	13.61	1.50		2009	14.85	12.91	1.94		2009	15.53	12.46	3.07	
Average			1.54		Average			1.02		Average			2.38	
Chicago					Kansas City					Phoenix				
2001	19.62	17.73	1.89		2001	18.89	17.93	0.96		2001	18.43	18.28	0.15	
2002	14.04	11.95	2.09		2002	13.92	12.15	1.77		2002	12.65	12.50	0.15	
2003	18.12	16.07	2.05		2003	17.55	16.27	1.28		2003	16.77	16.62	0.15	
2004	19.26	16.58	2.68		2004	18.03	16.78	1.25		2004	17.28	17.13	0.15	
2005	18.80	16.07	2.73		2005	17.54	16.27	1.27		2005	16.77	16.62	0.15	
2006	16.52	14.22	2.30		2006	16.19	14.42	1.77		2006	14.92	14.77	0.15	
2007	25.63	23.39	2.24		2007	24.86	23.59	1.27		2007	24.44	23.94	0.50	
2008	20.81	17.33	3.48		2008	19.77	17.53	2.24		2008	18.38	17.88	0.50	
2009	15.30	12.16	3.14		2009	14.97	12.36	2.61		2009	13.21	12.71	0.50	
Average			2.51		Average			1.60		Average			0.27	
Cincinnati					Oklahoma City					Seattle				
2001	19.96	18.13	1.83		2001	19.33	18.53	0.80		2001	18.25	17.83	0.42	
2002	13.91	12.35	1.56		2002	14.40	12.75	1.65		2002	12.47	12.05	0.42	
2003	18.04	16.47	1.57		2003	17.77	16.87	0.90		2003	16.59	16.17	0.42	
2004	18.82	16.98	1.84		2004	17.93	17.38	0.55		2004	17.10	16.68	0.42	
2005	18.35	16.47	1.88		2005	17.85	16.87	0.98		2005	16.59	16.17	0.42	
2006	16.63	14.62	2.01		2006	16.32	15.02	1.30		2006	14.74	14.32	0.42	
2007	25.80	23.79	2.01		2007	24.99	24.19	0.80		2007	24.21	23.49	0.72	
2008	20.76	17.73	3.03		2008	20.33	18.13	2.20		2008	18.12	17.43	0.69	
2009	15.56	12.56	3.00		2009	15.68	12.96	2.72		2009	13.04	12.26	0.78	
Average			2.08		Average			1.32		Average			0.52	

Source: Dairy Market Statistics Weekly Reports, 2001-2009, tables titled Minimum Federal order and announced cooperative Class I prices in selected cities.

Table 6. Differences in Producer Net Pay Prices, New York, Selected Months, 2001-2008.

Month and year	Dollars/cwt			
	Lowest 10%	Highest 10%	Difference	Blend at 3.5BF
August-01	15.26	18.12	2.86	16.78
August-02	10.08	12.29	2.21	11.41
August-03	11.44	13.96	2.52	12.97
August-04	13.56	16.24	2.68	14.82
September-05	14.09	16.52	2.43	15.17
September-06	11.57	14.29	2.72	12.68
September-07	21.36	24.20	2.84	22.24
September-08	17.41	19.67	2.26	18.15
Average			2.57	

Blend price is at Syracuse, NY

Source: Mark Stephenson, "Comparing Your Milk Checks," Cornell University Dairy Markets and Policy Project, Miscellaneous Publications Series, selected years. Available at <http://www.cpdmp.cornell.edu>

The blend price is from the Monthly Market Administrator Report for Northeast Marketing Area

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