
THE “OTHER WHITE MEAT”

Was the pork checkoff worth it?

Several familiar advertising slogans are funded by so-called “checkoff programs,” whereby U.S. farm commodity producers are assessed a fee that helps pay for a promotional campaign meant to raise the profile—and profits—for the industry. “Pork: The Other White Meat” is one such ad campaign funded by a checkoff program.

The mandatory pork checkoff began in 1986 in what is commonly referred to as the “Pork Act,” which was part of the Federal Food Security Act of 1985. The Act mandated a fee (currently 0.45% of the market value of a hog) to be collected when hogs were sold for slaughter. The funds went toward promotional efforts, consumer information campaigns, and research on behalf of pork producers. Approximately \$45-\$50 million was generated annually.

The U.S. District Court for the Western District of Michigan, however, ruled the Pork Act unconstitutional because it violates the First Amendment rights of pork producers by compelling them to subsidize speech with which they might not agree. In October 2003, the 6th Circuit Court upheld the earlier ruling in all of its parts.

LIKE A PEACH OR LIKE A MUSHROOM?

As a defendant in the case, the Government claimed that the promotional campaigns are legal forms of Government speech and therefore could not violate the free speech of an individual. For three principal reasons—intensive pork industry control, limited Government involvement, and program dollars derived not from general tax revenue—both courts rejected the Government’s claim. The next evaluative stage essentially came down to determining which of two other checkoff programs the Pork Act most closely resembled: peaches or mushrooms.

The peach program, which is part of the Agricultural Marketing Agreement Act, involves intensive governmental quality regulations (which aid in regulating quantity and price), packaging guidelines, and promotional activities. In 1997, the Supreme Court concluded that the peach promotional advertising was not unlawful compelled speech. The Mushroom Act, conversely, resulted in a checkoff program that did little more than promote mushrooms through generic advertising. As a result, in 2001, the Supreme Court ruled that the Mushroom Act violated First Amendment rights prohibiting compelled speech.

Upon review of the characteristics of the peach and mushroom programs, the courts determined that the pork program was very similar to the latter and that the pork checkoff violated the First Amendment. Earlier, the beef checkoff suffered a similar ruling against it on free speech grounds.

WHERE’S THE BENEFIT?

Yet, what about the economic benefits of the checkoff programs? Food System Research Group (FSRG) Director Kyle Stiegert, of the University of Wisconsin, was deposed in the U.S. District Court case to provide testimony as to the economic benefits of the generic pork advertising. His assessment focused on the structure of the market and on how the gains from the ad campaign are added up over time.

First, when food retailers and pork processors have the ability to control prices, any increase in demand due to advertising will generate gains for these sectors. Yet, the benefits will not be fully transmitted to the hog production sector. Previous economic analyses, which assumed the marketing channel was competitive, may have dramatically overstated the returns.

Second, when a firm evaluates an investment, it must choose an interest rate to discount expected profits from future periods. The higher the discount rate, the more penalty is imposed on those having to wait to collect profits. The difficulty, therefore, is how to evaluate a checkoff “investment.” Given that this investment can never be salvaged or broken up and sold in parts, and given the highly uncertain nature of the returns, Dr. Stiegert suggested that the low discount rates used probably overstated the calculated returns the pork program had attained. If there were gains to be had from generic pork advertising, therefore, they probably were very small.

TRENDS IN FOOD COMMODITY ADVERTISING

The court decisions paid less attention to the debate about economic benefits than they did to free speech issues, yet in striking down the Pork Act, the courts sent a clear and strong signal to the organizers and managers of checkoff programs. In the peach program, the regulatory apparatus is funded through the checkoff program. This seems to have been a factor in the court decision to not strike down that program on free speech grounds. Pork and beef marketing channels also have regulatory and even quality controls; however, those costs are covered either by the industry or the Government and not through the checkoff. Additionally, the dimensions of indirect price and quantity controls in the tree fruit sector are of extreme legal importance. Beef and pork markets have little in the way of these restrictions.

Both checkoff program managers and the USDA will attempt to evolve their programs in ways that bring them into legal compliance. For that to happen, they will want to look more like a peach and less like a mushroom. Future trends might be toward (a) greater and more intensive control from the USDA, (b) stricter guidelines on product quality managed through checkoff spending, and (c) smaller shares of checkoff budgets going toward promotional activities.

The USDA and the Pork Producers Association, defendants in the case, are considering whether to appeal the Circuit Court ruling, and the case may find its way to the Supreme Court. Regardless of the eventual outcome, checkoff programs might be more difficult to justify in the future on economic grounds. Dr. Stiegert points out that generic ad campaigns run counter to the increasing market for differentiated products. A generic campaign like “Pork: The Other White Meat” competes against those in the industry who specialize in and advertise branded products. The value of generic advertising may be waning.

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ISSUES: Farm commodity checkoff programs. Market structure. Generic food commodity advertising.

FINDINGS: Benefits from checkoff generic ad campaigns may be minimal. Rulings on free speech grounds hinge on amount of direct governmental involvement. The increasing market for differentiated brands may reduce the effectiveness of generic advertising.

OTHER MATERIAL:

Crespi, John M. “The Generic Advertising Controversy: How Did We Get Here and Where Are We Going?” *Review of Agricultural Economics* 25(2): 294-315.

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