MARKETING AGREEMENTS AND ORDERS — WITHOUT PRODUCTION CONTROLS

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This discussion is oriented in the general area of marketing agreements and marketing orders as they are used with fruits, vegetables, and other specialty commodities. In developing this topic I would like to: (1) emphasize bearing points which will help identify some of the principles and the philosophy underlying marketing agreements and orders; (2) point out some economic considerations and related implications of marketing agreements and orders; and (3) comment on experiences with a few selected commodities under marketing order programs.

SOME BEARING POINTS

Some bearing points which should be helpful in better understanding the usefulness of marketing agreements and orders in solving some of the price and income problems of agricultural commodities, as I see them, are:

First, marketing agreements and orders are based upon enabling legislation. This legislation has been passed by both the federal government and by various state governments to provide an institutional device for group action in solving some of the economic problems in connection with agricultural commodities. Marketing agreement and order experience dates back to the early 1930's.

Enabling legislation may be compared in one sense to a wheelbarrow, which never goes any place by itself. Someone must pick it up and move it along. Likewise, nothing happens under marketing agreement or marketing order legislation unless agricultural producers, through group action, initiate either an agreement or an order.

Second, there is an important institutional difference between marketing agreements and marketing orders. Marketing agreements are voluntary devices. They are binding only upon those producers (and handlers) who sign the marketing agreement. Voluntary programs of this type are generally not too successful. Few marketing agreements exist by themselves today because of the difficulty of bringing about sufficient compliance of producers and handlers to make effective the principles or objectives of the particular marketing agreement.

Marketing orders were included in enabling legislation to overcome the deficiencies of the marketing agreement. Once the terms of a marketing order are agreed upon, the initial proposal must be approved, in most cases, by at least two-thirds of the producers affected by the marketing order. If sufficient approval is received through a referendum in which all affected producers vote, the order is binding upon all producers (and usually handlers, too) who are affected by the terms of the order. This factor of compliance which is binding on all producers (and handlers) has been one of the most effective features of the marketing order program.

If the marketing order is instituted under federal enabling legislation, the terms of the order are enforced by the Secretary of Agriculture, in Washington, D. C. If the order is instituted under state enabling legislation, the terms of the order are enforced by a State Department of Agriculture, or by some agency of this department.

Third, marketing agreements and orders have one major purpose —to improve the market power of producers. In most cases the objective is to stabilize marketing conditions, which will improve producers' income. From a practical standpoint, most marketing orders seek only modest improvement in prices or in producer income. In contrast, most federal legislation providing price stabilization for agricultural commodities seeks more than a moderate improvement in producer prices or income.

Experience shows that most marketing orders give only minor consideration to consumer welfare. The major purpose is to improve the economic welfare of the producers of the commodity covered by the terms of the order. Marketing orders are an attempt to improve the market power of producers by exerting some influence over the supply of, and the demand for, the commodity offered for market.

Unlike federal stabilization programs which involve the use of price support and related devices, marketing agreements and orders use no public funds. The objectives of the orders are achieved through funds obtained from the producers and/or handlers involved in the program. However, some federal and state funds are required for the administrative and coordinating aspects of individual orders.

Fourth, the coverage under marketing order programs may differ widely. Marketing orders established under federal enabling legislation are designed for interstate commerce and thereby may cover a wide producing area or areas. State orders are restricted primarily to market channels within a state or to those functions which are intrastate in nature. Presently, about 42 federal marketing agreement and order programs are in effect in more than twenty states.

Federal marketing orders may be applied only to a limited range of commodities. However, the scope of federal enabling legislation was broadened by the Agricultural Act of 1961. State orders, on the other hand, may authorize regulatory provisions for *any* agricultural product.

Control provisions also differ between federal and state order programs. For example, the federal order program authorizes the use of volume and surplus controls; quality and container regulations; inspection services; the prohibition of unfair trade practices; and the spending of funds collected for various research projects. State order programs, in addition to the above provisions, may authorize programs for advertising and promotion. Thus, federal orders contain provisions relating primarily to the supply side. State orders cover not only the supply side but also may influence the demand side. However, the coverage provided by state enabling legislation differs considerably from state to state.

Fifth, because of the widespread interest in the advertising and promotion of many agricultural commodities, some states have enacted a special type of enabling legislation which permits producers to establish a marketing order or a commodity commission for the primary objective of collecting funds from producers for use in market promotion and development. The advantage of this special enabling legislation is that the cost of advertising, promotion, and market development is shared proportionately by producers in line with the volume of products offered on the market.

In Oregon, for example, the enabling legislation covers only advertising and promotion and the expenditure of funds for special research projects. These research projects are often utilization studies or market studies concerned with ways of increasing demand. The Oregon institutional arrangement of commodity commissions appears to be an effective device for producers who desire to obtain funds primarily for advertising, promotion, and market development.

In California, about 8 million dollars is collected each year from producers to carry out the terms of the various state order programs. Three out of every five dollars collected from producers in California are used for advertising, promotion, and market development. It is estimated that only 3 percent of the total funds collected are used for research.

Sixth, marketing agreements and orders do not regulate production. While some state programs provide complementary legislation that exerts some control over production, marketing orders do not, of themselves, regulate production. Although quantity control was originally a major consideration of marketing orders and still continues to be a feature of many marketing order programs, it is less important today than in earlier years. The legislation of many states, for example, prohibits the use of any type of volume control as a means of implementing the objectives of a marketing order. While quality control and size control regulations can have some influence on the supply placed on a market, the major regulatory provisions of most orders are based on other institutional devices.

ECONOMIC CONSIDERATIONS AND RELATED IMPLICATIONS

The economic considerations and related implications which follow are presented primarily to assist the marketing specialist or policy specialist in working with producers and related groups who may be interested in developing or modifying marketing orders under either state or federal enabling legislation.

First, no magic is involved in any programs utilizing some form of marketing order. As far as I can determine, no fixed rules or procedures are available for devising or administering marketing orders. Marketing orders are developed in light of current economic conditions.

Authorities in this field generally recognize that the success or failure of marketing orders depends upon the skill and ability of those who administer the particular provisions of the marketing order. Therefore, one of the most important considerations in any marketing order program is the employment of a qualified executive officer. The importance of the human factor cannot be overstressed when a marketing agreement or order is being considered.

Second, each marketing order proposal must consider carefully the economic relationships which will affect the operation of the order. Here is where the agricultural economist, the marketing specialist, or the policy specialist can play a most effective role. Some of the relevant economic factors to be considered are as follows:

1. Estimates of the relative price elasticities of both demand and supply of the commodity or commodities affected are essential.

2. The proportion of the commodity which will come under the regulatory provisions of the order must be carefully estimated. What will be the total and/or seasonal supply of the commodity covered by the order? Unless enough of the supply can be included to make the order effective, the value of an order will be questionable.

3. The nature of a supply response within the industry to the actions that you may take under the proposed order should be thoroughly understood. For example, what will be the interproduct effect of the action that you will take under the order? What will be the effect upon the local producing areas affected by the order as well

as in other areas not directly affected by the order? Can outside areas be brought under the regulatory provisions of the program?

It should be emphasized again that marketing order programs do not prevent the expansion of production in areas which have both the physical and economic means to enter a particular industry. If a marketing order succeeds in raising prices, the price improvement may bring about a supply response from other areas which will defeat the over-all objectives of a particular order.

4. The structure of the industry must be well known. If an order is to be effective, its provisions must be focused on critical structural points of a given industry.

5. The interproduct effects of the regulatory provisions of the order upon the consumption of the product involved must be understood. Some marketing orders have been self-defeating because they have reduced the consumption of the regulated product, or have contributed to an expanded consumption of competing but unregulated products.

Third, in most cases the industry does not give enough attention to the long-run implications of the regulatory provisions of a marketing order. Marketing orders are generally based on short-run considerations which are both timely and attractive. As was indicated earlier, the most effective orders have been those which have sought modest increases in price or income to producers.

Fourth, marketing orders generally are not considered to be a solution to the price-cost squeeze facing agriculture. As a policy device, marketing orders are not an answer to the chronic surplus problem of any agricultural commodity. This is perhaps quite obvious since marketing orders do not regulate production. When a surplus problem is seasonal or temporary, marketing orders may be of some value to a particular agricultural industry.

In many cases, marketing orders have actually delayed needed adjustments in a particular industry. Therefore, the possible impact of a marketing order on the adjustment problem of a particular industry should be studied and evaluated.

Fifth, the quality or surplus control provision of a marketing order is often misused as a volume control device. Quality control strategies or size control strategies are most effective when they conform to the preferences of consumers. When these strategies meet the specifications of consumers, they are useful in improving the market power of producers. Authorities in this field are quick to point out that the misuse of a quality control provision may lead to instability rather than stability in the market position of a particular agricultural commodity.

Sixth, promotion and market development programs must be evaluated carefully. This is probably one of the most difficult aspects of a marketing order program to appraise. Producers generally have considerable confidence in advertising and promotion programs and are willing to be "taxed" to provide funds for this purpose. Market promotion or advertising programs which are successful for a particular commodity encourage the producers of competing or substitute products to adopt similar promotion programs. The net effect of spreading promotional efforts may be increased spending with little or no aggregate gain in the demand for the product. Where producers are successful in differentiating a product under a marketing order program, an advertising and promotion effort may achieve its greatest success.

Seventh, agricultural economists and marketing specialists have an important role to play. This role of the agricultural economist is improving the understanding of producers and other groups regarding the possible effectiveness of a particular marketing agreement or order. Perhaps the most effective role of the marketing or policy specialist is that of a "neutral," who discusses a particular proposal in terms of its economic implications. A policy specialist must use caution in presenting testimony for or against a particular agricultural group interested in an order.

Eighth, the following characteristics are emphasized by Hoos of California as exceedingly important when appraising the effectiveness of the marketing order program in a particular agricultural industry.[1]

1. The nature of the demand for the product must be such that the producers can benefit from the program.

2. A community of interest must exist relative to the marketing problem.

3. The production of the commodity should be concentrated in one area or in an area sufficiently small to provide a similarity of production and marketing conditions.

4. Some actively interested organization or commodity group should be available to provide the necessary encouragement, initial financing, and sponsorship of qualified people who may serve on advisory boards or committees. In many cases a strong cooperative organization has been very helpful in filling this role.

[1] For a more complete discussion of some of the economic considerations of marketing agreements and orders, see the statement by Sydney Hoos in the Joint Economic Committee print, *Policy for Commercial Agriculture in Relation to Economic Growth and Stability,* U. S. Govt. Printing Office, November 22, 1957, pp. 825-33.

As Hoos points out, the commodities which usually meet the above specifications are fruits and vegetables, tree nuts, and other specialty commodities.

Ninth, opinion is mixed concerning the aggregate economic benefit of marketing agreement and order programs. Improvement in the market power of producers would seem to be somewhat modest. The fact that both federal and state marketing agreements and orders have existed for more than a quarter of a century should serve as some evidence that their advantages have exceeded their disadvantages. It would be most unfortunate, however, for agricultural economists, agricultural producers, or legislators to conclude that because marketing orders have been "successful" with certain specialty commodities, they can be applied with equal success to more general commodities which lack certain critical characteristics.

An expanded marketing agreement and order program is not likely to be an effective substitute for present agricultural stabilization programs. Marketing agreements and orders may be a complementary institutional device which will be effective in improving the market power of some producer groups not presently using them. On this point Dr. Hoos says:

> On one hand, the overall or aggregate relative value, volume, and number of producers involved in products suitable for marketing order programs does not loom large in relation to the national total. And on the other hand, unless the programs are operated so as to bring only moderate—but possibly lasting—income increases to producers (to restrain increased competitive pressure from other products and areas), greater instability rather than stability can be introduced to farm incomes. Thus, the inference can be made that use of marketing agreement and order programs is not likely to be an effective means of significantly raising the average level of national farm income over a period of years or significantly reducing the instability of national farm income over a number of years.[2]

A by-product benefit to growers should be emphasized. Generally, the operation of a marketing order forces the industry to develop and improve its statistical information.

Another important by-product is that growers who are associated with marketing agreements and orders, as members of advisory boards or in other capacities, tend to develop a fountain of knowledge concerning economic concepts. As growers become familiar with the economic facts concerning their industry, they are more effective in providing guidance not only for marketing agreements and orders

[2] Sydney Hoos, "The Contribution of Marketing Agreements and Orders to the Stability and Level of Farm Income," Joint Economic Committee print, *Policy For Commercial Agriculture in Relation to Economic Growth and Stability,* U. S. Govt. Printing Office, November 22, 1957, p. 326.

but also for other programs directed toward a long-run improvement in their market power.

SOME RANDOM EXPERIENCES WITH MARKETING ORDERS AND RELATED PROGRAMS

California has undoubtedly had more experience with both federal and state marketing orders than any other state in the nation, with 16 federal order programs and 33 state order programs. In addition, several special programs have been established by marketing acts of the state legislature.

Here are some brief comments concerning selected experiences with marketing agreement and order programs presently operating in the Pacific region:

1. CALIFORNIA LEMONS. A program was established under state enabling legislation to improve the market power of lemon producers. This market power was strengthened by inclusion of a diversion provision to benefit fresh market shipments. All lemons in excess of fresh market needs were diverted for processing and conversion to various lemon products. The program was successful in raising returns to lemon producers since it had most of the characteristics listed by Dr. Hoos, including the sponsorship of a very strong cooperative organization, Sunkist Growers, Inc.

The higher returns received by California growers attracted new plantings in Arizona not included in the original marketing program. As a result, thousands of new acres of lemons have been planted in Arizona which will become competitive with the lemons produced in California. This situation made the state program no longer effective. The only solution, therefore, was a federal order which would apply to all producers in a related supply and marketing area.

2. FILBERTS. Filbert growers in the Pacific Northwest are presently operating with a federal marketing order. This is a specialty commodity which meets the specifications outlined earlier, with the major share of the national supply provided by Oregon growers. The purpose of this order is to determine each year the proportion of the filbert crop which will be sold in the preferred in-shell market. The balance of the crop is shelled and sold for various uses. This order has been quite effective in some respects; however, it has not been effective in restricting production of filberts in Oregon. Favorable returns have stimulated new plantings, which add to the surplus diversion problem each year.

3. CALIFORNIA CLING PEACHES. This commodity meets most of the characteristics set forth by Dr. Hoos, with the majority of the

cling peach production being in California. This industry has been operating under a California state marketing order since 1936. The order includes quite extensive regulations and, in general, has been effectively administered. The provision for a diversion of part of the crop to processed peaches has helped maximize grower return. The success of the market promotion program is more difficult to determine because of the impact of peach promotion programs in other areas of the United States.

4. SOFT WHITE WHEAT. Soft white wheat production is concentrated largely in the Columbia Basin counties of Oregon and Washington, and in part of southern Idaho. Growers in these three states are conducting a promotion program under enabling legislation which provides for the establishment of commodity commissions. The impetus for the enabling legislation and the promotion effort came from the Oregon Wheat Growers' League, one of the strongest and most articulate farm organizations in the Pacific Northwest. The enabling legislation under which these commissions operate provides authorization from wheat producers to finance market promotion and development and also research.

A program of overseas market development was instituted several years ago in cooperation with the Foreign Agricultural Service of the U. S. Department of Agriculture and the Grain Millers' National Federation. The Oregon Wheat Commission provided the services of a market development specialist who used Public Law 480 funds to acquaint the Japanese people with the use of wheat rather than rice as a staple in their diet. This program was exceedingly effective. As the Japanese people switched from rice to wheat, an opportunity developed for Japanese capital to move into a new baking industry. Soft white wheat was soon found lacking in physical characteristics required by a modern push-button bread baking factory. As a result, some of the market development effort was lost to hard wheat producing areas, including Canada and other competing countries. The Northwest, however, still sells substantial quantities of soft white wheat to Japan for non-bread uses.

Recently the program was strengthened by a joint effort of Oregon, Washington, and Idaho, which formed a new organization known as Western Wheat Associates. Considerable progress is being made in expanding the market potential for soft white wheat in India and in other countries of Southeast Asia. This long-range program is the kind of effort which producer groups in other areas may wish to consider for certain exportable commodities.

5. OREGON BROILERS. Several years ago the fryer growers of Oregon utilized enabling legislation to assist them in promoting

Oregon fryers in competition with fryers grown in nearby Washington and other out-of-state areas. A recent study completed by Oregon State University suggests that the program has been less effective than was anticipated. It has been difficult to differentiate Oregon fryers from poultry produced in other areas.

6. Winter Pears. A voluntary program aimed at orderly marketing and improvement of the market power of winter pear producers was organized more than twenty years ago by the winter pear producers of Oregon, Washington, and California. The organization is known as the Oregon-Washington-California Pear Bureau. Recently its program was enlarged to include a promotion program for fresh Bartlett pears.

Winter pear production of the United States is concentrated in this three-state area. The significant fact is that the handlers and producers of pears in this three-state area have been able to join together in a voluntary program.

Funds collected for promotion and market development are used to employ field men who contact wholesalers and retailers in the major market areas of the United States and assist them in point-of-sale promotion of fresh pears. In addition, considerable money has been spent on research affecting both the production and marketing of winter pears. The program is administered by an executive board representing producers and handlers from the three-state area. This example of a marketing program, which has become effective on a voluntary basis, is an exception to what is customarily expected.

In conclusion, I would like to stress that marketing agreements and orders have a definite place as an institutional device utilizing group action to improve the market power of certain producers. The success of each marketing agreement and order will depend upon the elements which constitute the order program. The role of the agricultural economist, whether he is the marketing specialist or the policy specialist, is to help evaluate the elements of each proposal and to assess their probable potential in improving the market power of the agricultural producers concerned.