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He sells milk for half the price you pay. The feds want to stop him. Why?

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YUMA, Ariz. -- Hein Hettinga is a dairy farmer but he doesn't spend his days milking cows.

Rather, Hettinga keeps a cell phone pressed to his ear to keep tabs on his empire of 15 dairy farms stretching from California to west Texas, including five massive farms in the desert east of Yuma.

But what distinguishes Hettinga from other large-scale dairy farmers is that he also bottles the milk from his Arizona farms and trucks it to stores in Arizona and Southern California. At one of them, Sam's Club in Yuma, two gallons of Hettinga's whole milk sell for \$3.99.

That's the same price as a single gallon of whole milk in Chicago, which is second only to New Orleans in the cost of milk.


By controlling all stages of production, Hettinga says he can produce milk so efficiently that he and his customers can make a hefty profit at dirt-cheap prices. Such vertical integration, as it is known, is increasingly popular in agriculture as farmers and processors try to find ways to eliminate costs and increase revenues.

In the highly politicized world of dairy, efficiency could carry a price. Major dairy cooperatives and milk processors successfully persuaded federal regulators to write new rules that would prohibit the business practices that Hettinga has so successfully put in place.


Under the proposed regulations, Hettinga could continue to process his own milk only if he agrees to participate in a federally regulated pool of milk revenues, which would essentially require him to pay his competitors to stay in business. A bill that would have a similar effect is working its way through Congress.

Hettinga, an outspoken 64-year-old who emigrated from Holland to California at age 7, said the pending regulations were an effort by dairy heavyweights such as Dean Foods and the Dairy Farmers of America, the nation's largest dairy cooperative, to monopolize the milk business.

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"Basically, I'm a pebble in the shoe of DFA and Dean Foods," he said. "The only reason I'm a success is they are a milk monopoly and they have raised the price too high. The consumer is getting ripped off."

Both Dean and the Dairy Farmers of America, or DFA, declined to comment for this article.

Beyond regulators' intent?

In legal briefs filed with the U.S. Department of Agriculture in 2004, lawyers for Dean Foods and DFA argued that Hettinga's operation flouted the original intent of the federal milk market order, a regulatory system created during the Great Depression to ensure a reliable milk supply and a reliable price for farmers. The regulations include an exemption for farmers who bottle their own milk, known as producer handlers.

Marvin Beshore, a lawyer for DFA, has said Hettinga's dairy takes the idea of producer handler far beyond what regulators originally envisioned, "mom and pop dairies that bottled the little milk they produced and sold to their neighbors." And he waxed apocalyptic about what would happen if other dairy farmers were allowed to follow Hettinga's lead.

He has said that if Hettinga were allowed to continue, it "will lead to the disintegration of the entire federal order system and consequently, to chaotic milk markets across the United States."

Charles English, an attorney representing Dean Foods and Shamrock Farms, a competitor of Hettinga's in Arizona, said in a 2004 brief to the USDA that Hettinga's operations had grown so large so quickly that they were depressing prices for other dairy farmers in Arizona by a penny or two per gallon.

English also argued that Hettinga had an unfair advantage over regulated milk bottlers because he didn't have to pay the federally mandated price for raw milk. The result is that Hettinga is stealing customers by offering prices that regulated processors can't match, English said.

The intense lobbying effort to curb Hettinga showcases what many, including lawyers in the Justice Department, say is an antiquated, unfair system for regulating milk. These critics question why the federal regulations are still needed, given an oversupply of milk and a burgeoning international dairy marketplace that bears little resemblance to the 1930s.

Furthermore, they argue that the rules of the federal order have allowed the giants of the dairy industry to tighten their grip on the marketplace by forcing competitors to comply with rules that favor larger outfits. Allegations that the DFA was trying to monopolize the raw milk market have prompted an ongoing anti-trust investigation by the Justice Department.

Federal milk order

Most farmers sell their milk to manufacturing plants that produce bottled milk, cheese, ice cream or other dairy products, with the highest prices typically paid for bottled milk.

To prevent undue competition, farmers are allowed to vote for a federal order to regulate the dairy industry in their region. There are 10 regions in the federal milk order; California maintains its own state-run milk order, and a few parts of the country are unregulated.

Dairy processors pay at least a USDA-set minimum price for raw milk. Milk revenues are combined in a regional pool, and farmers receive an average price. So a farmer whose milk is shipped to a cheese plant

receives the same price as a farmer whose milk is bottled into gallons.

But because of the exemption for producer handlers, Hettinga has bypassed the federal milk order. If the changes to the milk order are approved, there would still be an exemption for producer handlers, but only those that produce less than 3 million pounds of milk a month--about a sixth of Hettinga's Arizona production.

"These laws have been in effect 60 years, 70 years, and they are changing the law just to do me in," said Hettinga, who has spent nearly \$1.5 million on legal fees during the past four years, about \$1,000 a day. "If I've got such a better system, why don't they deregulate everyone?"

Hettinga casts himself as David fighting the Goliaths of the dairy industry. But he hardly fits the caricature of the workaday farmer. With a private plane and pilot and three houses, including one overlooking the Pacific Ocean in Newport Beach, Calif., Hettinga is among the largest dairy farmers in the U.S.

Besides running his dairy farms and his two bottling plants, Hettinga also makes his own plastic milk bottles and ships the milk in his own Sarah Farms trucks. By making pennies on each step of the milk production, Hettinga said he and his customers can make a profit even when selling two gallons of whole milk for \$3.99 (a two-pack of skim is \$3.44).

Hettinga's size has also allowed him to wage an expensive and high-profile battle against his opponents. In addition to hiring lawyers and a lobbyist, Hettinga has plastered signs on the back of his milk trucks that read "Stop the Milk Monopolies From Raising Your Milk Prices." When Sen. Jon Kyl (R-Ariz.) supported legislation to regulate Sarah Farms, Hettinga responded by slapping a label on the side of his gallons of milk urging consumers to call Kyl's office to voice their displeasure.

It's ironic that the nation's largest dairy companies and cooperatives are fighting vertical integration by a dairy farmer. As vertical integration has become more and more popular in agriculture in the past several decades, farmers have often complained that vertical integration by major agribusiness companies such as Smithfield Foods and Tyson Foods was driving them out of business.

Hettinga has another term for it. He calls it "un-American."

"They say I have an unfair advantage, but anyone in the United States can do what I do," said Hettinga, who estimates he will have to pay \$3.5 million a year to his competitors to participate in the federal pool system if the new regulations are approved.

While Hettinga says he could survive such a financial hit, three smaller producer handlers in the Northwest--Mallorie's Dairy in Oregon and Smith Brothers Farms and Edaleen Dairy in Washington state--say the new regulations could put them out of business.

Others losing revenue

Dana Coale, deputy administrator for USDA's dairy programs, said her agency's decision was based on the fact that Hettinga and other large-scale producer handlers were lowering the price that regulated dairy farmers were receiving for their milk. USDA records show an average dairy farmer in Arizona was losing annual revenue of \$11,000 to \$17,000 because of Hettinga.

"It is resulting in other dairy farmers having to suffer for the operations of the producer handlers," Coale said.

Though the USDA approved the recommendations, they still face a vote from farmers in the Arizona/Las Vegas milk order and another order in the Pacific Northwest. Coale said the votes should be tabulated by the end of the month.

The regulations are expected to be approved, in part because cooperatives can vote as a bloc, virtually ensuring that a dominant cooperative -- such as DFA--can control the vote.

"The federal order system is driven by people with power, and that now is the co-ops and Dean Foods," said Charlie Flanagan, business manager of Mallorie's Dairy, adding that being forced to join the federal milk pool would cost his dairy \$1million a year, more than its annual profits. "They shape the rules that everybody has to play by."

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