

U.S. Court Upholds Ruling; Beef Act 'Unconstitutional'

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by compelling all beef producers and importers to pay for generic beef advertising is not sufficiently substantial to justify the infringement on producers' First Amendment free speech right.

U.S. Agriculture Secretary Ann Veneman issued the following statement after hearing the decision: "I am disappointed that the U.S. Court Appeals for the 8th Circuit upheld the lower court's ruling that the Beef Checkoff Program is unconstitutional. USDA regards such programs, when properly administered, as effective tools for market enhancement. We are consulting with the U.S. Department of Justice to determine the next steps regarding this matter."

Eric Davis, president of the National Cattlemen's Beef Association (NCBA) and a beef producer from Bruneau, Idaho, said, "We are deeply disappointed in the court's ruling today, but remain committed to our goal of protecting the future of the beef checkoff."

"This ruling is not unexpected," Davis said. "Throughout the lengthy litigation process, we have anticipated that this decision would ultimately need to be made by the U.S. Supreme Court."

"America's beef producers can rest assured," Davis said, "we will see this through to the end. Despite this court's decision, we believe in the merits of our case and in the merits of the beef checkoff. We are confident the checkoff will ultimately prevail."

On Thursday, *Lancaster Farming* spoke with Paul Slay-

ton, executive director of the Pennsylvania Beef Council. The case could go to the U.S. Supreme Court, and that's "what we expected it to do," Slayton said. The Beef Council, noted the executive director, "is disappointed and surprised at the decision."

Slayton noted that if the checkoff is stopped, other commodity checkoff programs are in jeopardy. The council provides a great deal of educational and promotional programs that also could be in jeopardy.

Slayton noted that all three judges voted against the checkoff, which he said was "alarming." Slayton said the council will know in about 45 days if the case is headed to the Supreme Court. But the court doesn't always agree to hear cases submitted to it.

The Western Organization of Resource Councils' Chairman Shane Kolb, a rancher from Meadow, S.D., said the decision "upholds the rights of independent cattle producers who have been fighting this illegitimate checkoff for years."

Livestock Marketing Association President Billy Perrin said Tuesday the decision affirming that the beef checkoff is unconstitutional and unenforceable, "also affirms all American beef producers' First Amendment, free-speech right."

The 8th Circuit rejected the Cattlemen's Beef Board's assertion that its promotion and advertising programs were "government speech," and thus immune from LMA's first amendment challenge.

The Appeals Court agreed with Federal District Court Judge Charles Kornmann that the beef checkoff is, "in all material respects, identical to the mushroom checkoff," which the U.S. Supreme Court struck down in 2001.

Noting the Appeals Court statement that, based on its findings, "no remaining aspects of the (Beef) Act can survive," Perrin said, "Hopefully, this decision will bring finality to this long-running dispute."

Farmers Union President Dave Frederickson, in response to the Court of Appeals ruling, said, "We are pleased with the decision by the Court of Appeals. NFU supports a voluntary, not mandatory, producer controlled checkoff promotion program of U.S. origin commodities."

It is too soon to think the beef checkoff is finished. There are still many other organizations and individuals assessing the situation.

The many state beef councils who depend on one-half of the checkoff dollar to finance their many successful beef promotions and producer programs are concerned.

Other commodity checkoff groups are considering the repercussions on their programs.

There has been much speculation about the USDA's and the government lawyers' decision to pursue further legal actions on behalf of the beef checkoff. Some have said the case will go all the way to the U.S. Supreme Court. However, some have also commented the Supreme Court would probably refuse to accept the case.

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Sen. Arlen Specter, Room 530, Hart Senate Building, Washington, D.C. 20510. Phone: (202) 224-4254; fax: (202) 228-1229; e-mail: See Specter's Website.

Sen. Rick Santorum, Suite 1, Russell Senate Building, Washington, D.C. 20510. Phone: (202) 224-6324; fax: (202) 228-0604; e-mail: See Santorum's Website.

Rep. Joseph R. Pitts, (R-16th District), Room 504, Cannon House Office Building, Washington, D.C. 20515. Phone: (202) 225-2411; fax: (202) 225-2013; Lancaster office, 50 N. Duke St. Phone: (717) 393-0667; fax: (717) 393-0924.

State

Gov. Ed Rendell, 225 Main Capitol Building, Harrisburg, PA 17120. Phone: (717) 787-2500; fax: (717) 772-8284; e-mail: governor@state.pa.us.

Sen. Gibson E. Armstrong (R-13th District), Room 281, Capitol Building, Senate Box 203013, Harrisburg, PA 17120. Phone: (717) 787-6535 or (800) 235-1313; 120 S. Queen St., Lancaster, PA 17603; 2997 Cape Horn Road, Red Lion, PA 17356; e-mail: garmstrong@pasen.gov.

Sen. Chip Brightbill (R-48th District), Room 350, Capitol Building, Harrisburg, PA 17120. Phone: (717) 787-5780; fax: (717) 787-3455; district office, 222 S. Market St., Suite 103, Elizabethtown, PA 17022. Phone: (717) 361-6080; fax: (717) 361-6083.

Sen. Noah W. Wenger (R-36th District), Room 281, Capitol Building, Senate Box 203036, Harrisburg, PA 17120. Phone: (717) 787-4420; district office, 1248 W. Main St., Ephrata, PA 17522; e-mail: nwenger@pasen.gov.

Rep. Gibson C. Armstrong (R-100th District), 51A East Wing,

Harrisburg, PA 17120. Phone: (717) 783-6424; fax: (717) 772-9869; 680B Robert Fulton Highway, Quarryville, PA 17566. Phone: (717) 786-4551; fax: (717) 786-3645.

Rep. Roy E. Baldwin (R-97th District), 53B East Wing, Harrisburg, PA 17120. Phone: (717) 787-1776; 1720 Lititz Pike, Lancaster, PA 17601. Phone: (717) 569-5855; fax: (717) 519-4306.

Rep. Scott W. Boyd (R-43rd District), 423 Irvis Office Building, Harrisburg, PA 17120. Phone: (717) 783-6422; fax: (717) 787-7731; 1861 Charter Lane, Suite 102, Lancaster, PA 17601. Phone: (717) 464-5285; fax: (717) 295-7817.

Rep. Thomas C. Creighton (R-37th District), 53A East Wing, Harrisburg, PA 17120. Phone: (717) 772-5290; fax: (717) 772-9869; 47 Market Square, Manheim, PA 17545. Phone: (717) 664-4979; fax: (717) 664-4997; 323 Main St., Denver, PA 17517. Phone: (717) 336-2199; fax: (717) 336-4522.

Rep. Gordon R. Denlinger (R-99), House Box 202020, Main Capitol Building, Harrisburg, PA 17120-2020. Phone: (717) 787-3531; fax: (717) 705-1951; e-mail: gdenling@pahouse.gov; 607 E. Main St., Ephrata, PA 17522. Phone: (717) 733-4002; fax: (717) 733-3992; Web-page: www.repdenlinger.com.

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Rep. P. Michael Sturla (D-96th District), 105A East Wing, Harrisburg, PA 17120. Phone: (717) 787-3555; fax: (717) 787-0861; 8 N. Queen St., Suite 1100, Griest Building, Lancaster, PA 17603. Phone: (717) 295-3157; fax: (717) 295-7816; e-mail: msturla@pahouse.net.

Rep. Katie True (R-41st District), 143A East Wing, Harrisburg, PA 17120. Phone: (717) 705-7161; 2938 Columbia Ave., Manor West Commons, Suite 501, Lancaster, PA. Phone: (717) 295-5050.

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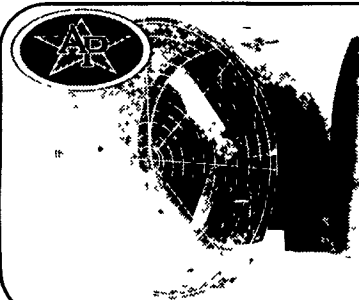
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