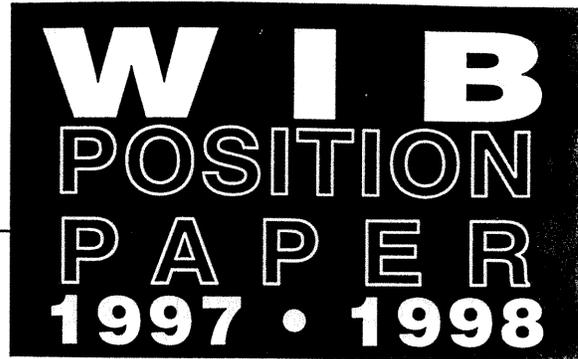




Agri-Business Coalition

FROM: WAYNE COREY
Executive Director



SB 2 : CHEESE EXCHANGE REGULATION IMPORTANT

**PREPARED FOR : THE SENATE COMMITTEE ON AGRICULTURE &
ENVIRONMENTAL RESOURCES**

DATE : January 21, 1997

So few can harm so many. That's what happens too often on the National Cheese Exchange.

Senate Bill 2 is vital legislation that will begin a process of regulation of the National Cheese Exchange. That regulation is urgently needed by Wisconsin farmers.

Wisconsin Independent Businesses and WIB's Agri-Business Coalition strongly supports SB 2. Farm families have suffered serious and unfair economic harm because of the strange system of cheese pricing that comes from the Cheese Exchange's practices. Farmers are not the only people damaged, however. Business throughout the state that depends on farm trade for their success are also harmed when farmers suffer. These businesses include those who serve farmers exclusively and the thousands of small town stores that cater to a market that includes many farmers and family members. Businesses, their owners and their employees all feel the pain that leads back to unusual pricing practices on the Cheese Exchange.

On behalf of the 50,000+ people who own 16,000 businesses and 9,000 farms served by Wisconsin Independent Businesses, we urge support of SB 2. Support for SB 2 is real support for Wisconsin's dairy farmers.

Wisconsin Independent Businesses, Inc.

NATIONAL CHEESE EXCHANGE, INC.

130 EAST WALNUT STREET

P.O. BOX 1844

GREEN BAY, WISCONSIN 54305-1844

PHONE 414-432-2336

RICHARD J. GOULD
PRESIDENT

January 20, 1997

TO: The Honorable Members of the State Senate
Madison, Wisconsin

RE: Senate Bill 2

Dear Senator:

Senate Bill 2 would create criminal and civil penalties as well as private rights of action with punitive measures of damages for trading activities on the National Cheese Exchange. These penalties and remedies would be imposed on the basis of restraints on trading which are extraordinary and unprecedented. No free market could function under such restraints. If Senate Bill 2 becomes law, the NCE will have no choice but to dissolve and reincorporate in another state.

The bill is virtually identical to a regulation proposed by the Wisconsin Department of Agriculture, Trade and Consumer Protection last March. We are attaching a copy of a letter we sent to the Department at that time, setting forth our views in more detail. Two brief examples of the bill's flaws are the following:

1. The bill would prohibit sales of cheese on the NCE at a price lower than could be obtained off the NCE at approximately the same time. This provision fails to recognize that there is no other market or source of information from which a seller could learn whether a better price is available elsewhere. The only way to avoid violating this law would be for sellers to make continuous rounds of calls to every potential cheese buyer in the United States up to the very moment that trading begins on the Exchange. This is utterly impractical, so the net effect would be that no one could sell cheese on the NCE without fear of violating the law. The same would apply to buyers, who would be prohibited from buying cheese on the NCE at a price higher than could be obtained off the NCE at approximately the same time.
2. The bill also prohibits members from acting primarily as a buyer of cheese on the NCE while acting primarily as a seller off the Exchange, and vice versa. This would mean, for example, that if a cooperative which primarily sells cheese off the Exchange found itself short of cheese for a month or two, it could not turn to the Exchange as a source of cheese

The Honorable Members of the State Senate
January 20, 1997
Page 2

without running the risk of both civil and criminal liability. We do not understand why such ordinary business activity, fully lawful on every other Exchange in the United States, should be declared unlawful for one Exchange in one state.

Finally, we respectfully suggest that, prior to taking any action on this bill, the Senate should seek counsel and advice from experts who are familiar with the operation and regulation of commodity exchanges, for example, representatives of the Commodity Futures Trading Commission, the Chicago Mercantile Exchange and the Chicago Board of Trade.

Yours very truly,

NATIONAL CHEESE EXCHANGE, INC.

By:



R. J. Gould

RJG/dlj
Enclosures

**STATEMENT OF CONGRESSMAN DAVID R. OBEY
BEFORE THE COMMITTEE ON AGRICULTURE
AND ENVIRONMENTAL RESOURCES
TUESDAY, JANUARY 21, 1997
REGARDING REGULATION OF THE GREEN BAY CHEESE EXCHANGE**

Senator Clausing and Members of the Committee, this is a vitally important hearing for thousands of dairy farmers throughout Wisconsin, for their families, their communities and the economies of hundreds of small towns and cities throughout rural Wisconsin that rely upon a healthy dairy industry. You are to be commended for conducting this hearing and for coming forward with a legislative proposal to prohibit the practice known as trading against interest which many observers have pointed to as the heart of the problem with the Green Bay Cheese Exchange.

To understand the need for this legislation it is important to review the recent history of federal dairy policy.

Since enactment of the 1985 Farm Bill and affirmed most recently with passage of the 1996 Farm Bill, the aim of federal dairy policy has been to reduce -- and eliminate -- milk price supports. I do not support that policy. The fact remains that in 1983 the support price for milk was \$13.60. That was the price at which the federal government would step in to buy up surplus dairy products to ensure farmers with a minimum price for their product. Throughout the Reagan and Bush era there was a steady ratcheting down of the support price to \$10.10. During the first term of the Clinton Administration the policy of driving down support prices was abandoned, and we actually saw a small increase, to \$10.35. With passage of the Farm Bill last year, the milk support price will fall for three years, and then be eliminated entirely on December 31, 1999.

The practical effect is that the federal government is no longer in the business of trying to maintain a minimum price for dairy farmers. Since the late-1980s, milk prices have for the most part been determined by the operations of the free market.

Into the vacuum created by the withdrawal of the federal government from the business of dairy pricing stepped the Green Bay Cheese Exchange. As the government withdrew from the market, the significance of the relatively small amounts of cheese traded at Green Bay grew. The Exchange became the principal price discovery mechanism for virtually all cheese traded throughout the United States. Further, the U.S. Department of Agriculture relied upon Exchange prices for cheese in determining prices paid to dairy farmers under federal marketing orders. That meant that the livelihoods of farm families in Wisconsin were suddenly dependant upon the vagaries of the half-hourly, once-a-week trading activities on the Exchange. That placed enormous and largely unregulated power in the hands of the traders on the Exchange.

Beginning in 1988 and 1989, dairy prices became extremely volatile. By withdrawing from the market, the federal government was no longer able to moderate the price swings in the

market.

As University of Wisconsin professors Fritz Mueller and Bruce Marion have shown in their analysis of the operations of the Exchange from 1987-1991, these new market conditions opened the door to manipulation of dairy prices by traders on the Exchange. Because of the link between cheese prices at the Exchange and prices paid to farmers under federal orders, traders on the Exchange were able to exercise tremendous influence over the farm price of milk -- and the price that they paid for their raw product. At the heart of the UW analysis, was the ability of traders to engage in trading against interest, in effect dumping cheese on the exchange, in order to drive down prices.

That is why it is so important that you are today reviewing proposals to regulate the Exchange, in particular SB 2 which would prohibit the practice of "trading against interest." Tens of thousands of Wisconsin dairy farmers, and hundreds of thousands of people throughout Wisconsin have discovered that the actions of the traders on the Exchange have enormous influence over their lives and over how much money turns up in their paychecks. The economy of rural Wisconsin is too important and too closely tied to the dairy industry to delegate responsibility for the health of that industry to the decisions of a handful of corporate traders in Green Bay who get together every Friday morning to set the price for cheese.

There are things that we can do at the federal level and I, Senator Kohl, Senator Feingold and others are exploring all our options. However, it strikes me that it is appropriate that the State of Wisconsin assumes at least partial responsibility for regulation of the Exchange.

Again I commend you for these hearings and for bringing forth this legislation.

RUSSELL D. FEINGOLD
WISCONSIN

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COMMITTEE ON THE JUDICIARY
COMMITTEE ON FOREIGN RELATIONS
SPECIAL COMMITTEE ON AGING
DEMOCRATIC POLICY COMMITTEE

United States Senate

WASHINGTON, DC 20510-4904

Statement by U.S. Senator Russ Feingold before the Committee on Agriculture and Environmental Resources January 21, 1996

Madam Chairman and Members of the Committee, thank you for this opportunity to provide testimony on the National Cheese Exchange and proposals to reform it or replace it. I commend this Committee for their fine work on this issue today and I look forward to working cooperatively to find both state and federal solutions to this problem.

As I know members of this Committee are aware, Wisconsin farmers have long feared that cheese prices are frequently manipulated at the National Cheese Exchange in an attempt to influence the price of milk. The March 1996 release of the long-awaited University of Wisconsin-Madison study by Drs. Mueller and Marion on trading practices at the NCE confirmed many of those fears. That study has provided a great service to dairy farmers by identifying both the problems of the Cheese Exchange and some potential solutions.

Many of the problems posed by the National Cheese Exchange and highlighted by the University of Wisconsin study are perplexing and their solutions elusive. However, the solution to other specific NCE related problems are more straightforward. It is incumbent upon both state and federal lawmakers **and** regulators to resolve those aspects of the problems we can address immediately while also working resolutely toward the solutions of the more difficult problems.

I have been working to find an alternative reference price for dairy industry use by seeking and achieving improved cheese price reporting by USDA and by seeking the creation of an alternative cash market for cheese that does not share the flaws of the National Cheese Exchange. U.S. Secretary of Agriculture Dan Glickman is also in the process of deciding on a replacement for Basic Formula Price -- now tied to the National Cheese Exchange. I will continue to work to pursue these solutions in order to lessen the influence of the Exchange on farm level milk prices. We are making progress slowly but surely.

Even those individuals most resistant to the notion that there was a problem on the Exchange are now willing to consider the creation of alternative markets and more frequent collection of reliable data on cheese prices. However, these long term solutions necessarily take more time to make a difference in the problem.

In the short term, however, there is much that can be done to prevent the manipulation of prices at the National Cheese Exchange through regulation under existing authorities. Unfortunately, despite DATCP Secretary Alan Tracy's proposal to move forward on a State rule to prohibit trading against interest on the Exchange -- an anticompetitive practice highlighted by the UW report -- the State of Wisconsin thus far has done little to take any

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responsibility to solve some of the problems caused by the National Cheese Exchange. In July, I wrote Governor Thompson and the DATCP Agriculture Board to urge them to move forward with a rule. It is disappointing that action was not taken on the rule administratively. Other regulatory actions that could have been taken, in terms of instituting mandatory controls on the Exchange practices, were also not pursued by the DATCP or the Governor's Cheese Pricing Task Force.

It is also an unfortunate fact that despite my efforts and those of my colleagues Senator Kohl and Congressman Obey, no federal agency has claimed any authority to regulate the day to day activities of the Exchange nor have the antitrust watchdogs in the Department of Justice or the Federal Trade Commission been willing to critically explore potential antitrust implications of Exchange trading. As today marks the first working day of the U.S. Senate, I will begin legislative efforts to provide clear authority to such Federal Agencies.

However, I believe it is critical that the State of Wisconsin exercise its jurisdiction over the Exchange and prohibit trading against interest on the National Cheese Exchange as well as implement other suggested controls on the NCE. I applaud Chairman Clausen and the Members of this Committee for their good work today in pursuing that goal.

I want to emphasize again that there is a role for the State of Wisconsin as well as for the Federal Government. It is essential that federal and state lawmakers and agencies work together to address these problems.

We owe it to Wisconsin dairy farmers to resolve this problem. Their message is loud and clear. Farmers will not tolerate a system that allows their bottom line to be manipulated by traders with the power to influence the National Cheese Exchange. We must not tolerate such a system either. Today's work by the Committee is the first step by the State of Wisconsin to make that clear to the National Cheese Exchange and member traders as well. I applaud your quick action so early in the State Senate session.

I look forward to working with you toward our mutual goal of returning to farmers a price determined in a fair and competitive manner.

JEROME R. SCHINDLER
ATTORNEY AT LAW
404 South Harding Road
Columbus, Ohio 43209-1949
Phone 614/239-9980 (Fax 239-9981)

January 20, 1997

The Honorable Alice Clausing
Chair
Agricultural and Environmental resources Committee
Wisconsin State Senate
Madison, Wisconsin

Re: Senate Bill 2

Dear Senator Clausing:

This statement is submitted on behalf of Borden Foods Corporation, which operates a cheese processing facility in Plymouth, Wisconsin. It is requested that this statement be made part of the hearing record on the above referenced bill.

Borden has been a member of the National Cheese Exchange (NCE), formerly known as the Green Bay Cheese Exchange, for a great many years and Borden Foods Corporation continues to be a member of that organization. The NCE satisfies the need for an open, fair, accessible and public cash market which serves as an indispensable and certain source of block/barrel cheddar cheese when needed for the manufacture of various process cheese products at Borden Food Corporation's facility in Plymouth, as well as an indispensable and certain market to sell block/barrel cheddar cheese that at a particular time may be surplus to the operation of that plant.

While the purpose of the NCE is not to set the market price for either milk or cheese, the trading opinions established at the NCE sessions are so widely respected by both the government and private industry that they are often used as an indicator of the current market value of milk and cheese.

In fact, while there are certainly some producer organizations that are critical of the NCE and will testify in favor of Senate Bill 2, there are many other producer organizations, both state and national, that join the processing industry in opposition to these restrictions on NCE trading.

One of the concerns/criticisms of the NCE is the thinness of the market, that is, the relative size of the trading that takes place on this exchange compared to the transaction volume that takes place off the exchange. It is ironic that the restrictions sought to be imposed by Senate Bill 2 can only serve to dramatically reduce the volume of trading on the NCE.

The specific restrictions on trading against interest would be unique among commodity cash and futures markets. It is expected that this bill would all but eliminate offers of cheese for sale on the exchange by any members who are primarily buyers of cheese off the exchange, as well as offers to purchase cheese on the exchange by any members who are primarily sellers off the exchange. This is not because such offers to sell or buy are in any respect against interest, but rather because the risk and expenses associated with being charged with a violation of this statute are just too great.

It is likely that enactment of Senate Bill 2 will have one or both of the following adverse effects on the State. The National Cheese Exchange will be forced to relocate outside of the State of Wisconsin. The NCE and/or one or more of its members will litigate the issue of the constitutionality of this statute at great expense to both the challengers and the State of Wisconsin.

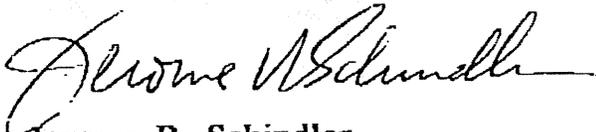
As with any auction market, whether it is the stock markets, the commodity exchanges, etc., prices may from time to time swing both higher and lower than what might appear to be reasonable. However, history has shown that any such excesses are quickly corrected.

Even over a relatively short period of time, milk prices determine the quantity of milk that will be offered (produced) by dairy farmers. Low milk prices quickly translate into reduced production which in turn creates a milk shortfall that spurs a bidding up of milk prices. Likewise, high milk prices trigger increased milk product and the resultant relative oversupply dampens prices. Supply and demand does work in the milk industry, and any perceived aberration in the NCE market opinion will certainly be short lived.

As stated earlier, it is not the intent of the NCE to set either milk or cheese prices. In response to concerns about the accuracy of currently reported prices, including the NCE opinions, beginning in February, USDA's National Agricultural Statistics Service (NASS) will commence national surveys of cheddar cheese prices received by manufacturing plants. The data generated by this USDA survey may supplement or even replace the market opinion of the NCE. This activity particularly renders moot this legislation restricting trading on the NCE.

For the reasons stated herein, Borden Foods Corporation respectfully requests that your Committee not report Senate Bill 2 out of Committee.

Sincerely,



Jerome R. Schindler



**International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association**

1250 H St., NW, Suite 900, Washington, DC 20005
202-737-4332 fax 202-331-7820

**Contact: Susan Ruland
National Cheese Institute
202-737-4332**

**DAIRY COOPERATIVES AND CHEESE PROCESSORS
JOIN IN OPPOSITION
TO NATIONAL CHEESE EXCHANGE LEGISLATION**

Bill Would Make Ordinary Trading Illegal

MADISON, WI, January 21, 1997 -- A broad-based group of 23 of the nation's leading dairy cooperatives, processors and trade associations have joined together to oppose proposed Wisconsin legislation governing the National Cheese Exchange (NCE).

Wisconsin Senate Bill 2 (SB 2) would require that no member buy cheese on the NCE at a price above any price that could have been received off the NCE at approximately the same time. Likewise, no member could sell cheese on the NCE at a price below what could have been received off the Exchange.

"Virtually everyone in the cheese industry is opposed to this bill. It is unworkable and certain to have adverse consequences far beyond the stated intentions of its sponsors," said Linwood Tipton, President and Chief Executive Officer of the National Cheese Institute (NCI), one of the trade associations opposing the bill.

"SB 2 establishes requirements that would be impossible to meet. There is no practical way to learn what every potential seller is willing to sell cheese for or every potential buyer to pay. Every trader on the Exchange would be at risk of severe penalties."

- more -

SB 2 also would prohibit any member who is primarily a seller off the Exchange from acting primarily as a buyer on the Exchange, and vice versa. For example, if a company that usually sells cheese off the Exchange were to experience a shortage, it could not buy steadily on the Exchange to maintain its supply without running the risk of legal liability.

"Intentionally or not, this bill takes sound business conduct and classifies it as criminal," Tipton said. "No other commodity exchange has any rule like this. The outcome will be the elimination of a cash market that is crucial to the cheese industry."

Tipton stated that the NCI, on behalf of the cheese industry, is initiating a broad-based effort to strengthen trading practices on the NCE, to create additional cash markets, and to develop new price reporting mechanisms to aid in the pricing of milk and cheese. "We intend to have a definitive plan by the end of March," Tipton said.

"Working together, farm groups, industry and the federal government are developing a series of far-reaching initiatives to improve market information and pricing mechanisms. The proposed Wisconsin legislation would short-circuit this effort and bring chaos to an otherwise orderly transition," Tipton said.

Tipton said NCI supports actions which will increase trading activity and public confidence in both cash and futures contracts, including:

- . Oversight of NCE trading by the appropriate federal agency.
- . More frequent, electronic and anonymous trading.
- . Combining cash and futures markets on one exchange.

In addition, Tipton said, other proposals to improve market information and to revise the Basic Formula Price (BFP) for milk are under consideration at the US Department of Agriculture (USDA), including discontinuing the use of NCE cheese prices to set prices paid dairy farmers under federal milk orders. "We must come up with viable alternatives," Tipton said.

"While we believe the NCE has accurately reflected supply and demand, public confidence in the Exchange is not as high as it should be. All the initiatives now under consideration by USDA and the industry will be far more effective in building public confidence than this ill-advised and unworkable bill," Tipton said.

The National Cheese Institute represents manufacturers, processors, and distributors of all types of cheese and cheese products. Established in 1927, NCI's membership includes over 100 member companies.

January 21, 1997

**DAIRY INDUSTRY STATEMENT ON PROPOSED WISCONSIN LEGISLATION
REGARDING NATIONAL CHEESE EXCHANGE TRADING PRACTICES**

A viable cash market for cheese is crucial to the cheese industry. The existing National Cheese Exchange is currently the only viable cash market for the sale and purchase of cheese. Having such a market is absolutely necessary for any commodity. The National Cheese Exchange also accurately reflects competitive supply and demand conditions nationally. Elimination or restriction of trade on such an exchange would have a major negative impact on the cheese industry. Legislation proposed in the Wisconsin State Legislature would severely restrict trading activity on the existing National Cheese Exchange, effectively eliminating the trading opportunities that exist. Moreover, without an available cash market, producers will be harmed rather than helped.

The cheese industry is initiating a thorough review of existing cash and futures markets for cheese as well as other possible alternatives to address concerns being raised about existing markets. The cheese industry is taking action immediately; however, it is extremely important that no action be taken on this legislation which would impede a cash market while this process goes forward.

We support the initiatives being undertaken by the dairy industry to continue to refine and enhance trading techniques at the National Cheese Exchange and to examine alternative cash market options. We are committed to a viable cash market and to the development of additional risk management tools to deal with the volatility of an increasingly dynamic and market oriented dairy industry.

National Cheese Institute
National Milk Producers Federation
Wisconsin Cheese Makers Association
Wisconsin Dairy Products Association
Wisconsin Federation of Cooperatives

Alto Dairy Cooperative
Associated Milk Producers, Inc.
Beatrice Cheese, Inc.
Borden, Inc.
Darigold, Inc.
Foremost Farms USA, Cooperative
Grande Cheese Company
Great Lakes Cheese
Hilmar Cheese Co.
Kraft Foods, Inc.
Land O'Lakes, Inc.
Leprino Foods Company
Marathon Cheese
Masters Gallery Foods
Mid America Dairymen, Inc.
Sartori Foods
Schreiber Foods, Inc.
Weyauwega Milk Products, Inc.

NATIONAL CHEESE EXCHANGE, INC.

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RICHARD J. GOULD
PRESIDENT

April 3, 1996

Board of Agriculture,
Trade and Consumer Protection
P. O. Box 8911
Madison, WI 53703-3238

The National Cheese Exchange (NCE) has been advised that the Board of Agriculture, Trade and Consumer Protection will meet on Tuesday, April 9, 1996 at LaCrosse, Wisconsin, and that among the items on its order of business is a proposal to create ch. ATCP 107 relating to trading on the National Cheese Exchange and the alleged manipulation of market prices for milk and cheese.

The substance of these proposed rules is as follows:

A member cannot sell cheese at the NCE at a price that is lower than the seller could have received for the cheese, at the same approximate time, off the Exchange.

A buyer cannot purchase cheese at the NCE at a price that is higher than the price at which he could have purchased that cheese, at the same approximate time, off the Exchange.

A member cannot act primarily as a seller on the Exchange while acting primarily as a buyer off the Exchange.

A member cannot act primarily as a buyer on the Exchange while acting primarily as a seller off the Exchange.

Our comments on these rules will follow.

It should be understood that NCE has no fundamental objection to reasonable regulations by an appropriate agency. In fact, a number of years ago NCE requested that it come under the jurisdiction under the Commodity Futures Trading Commission (CFTC). At that time, we were advised that because NCE did not deal in futures, NCE transactions were not within CFTC's regulatory power. However, it now appears NCE has become subject to the regulatory authority of CFTC. (See page III-9 of Report.)

In connection with the recently released report on a study of the National Cheese Exchange prepared for the Wisconsin Department of Agriculture, Trade and Consumer Protection (Report), ATCP

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April 3, 1996
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circulated a document entitled "Summary Remarks" dated March 19, 1996. This document states in part as follows:

"The cheese market is a national market. No state, acting by itself, can effectively resolve market problems that are national in scope. Nor can government resolve perceived problems in the cheese market without the effective support and cooperation of the market participants. At this time, there is no effective alternative to the Exchange as a price discovery mechanism for bulk cheese. All market participants, including the Exchange members themselves, are to some extent 'captives' of current market arrangements. Real solutions will require national action, and broad industry support."

Amongst its recommendations, ATCP recommends that:

"USDA and the Commodity Futures Trading Commission should review this report to determine whether they should take action to regulate business practices related to the marketing of cheese, including activities on the National Cheese Exchange."

It cannot be disputed that NCE is in reality a national organization and the State of Wisconsin should not attempt its regulation. The Commodity Exchange Act (CEA) gives the CFTC jurisdiction over the cash market with future contract markets and we respectfully submit that further regulation by the State of Wisconsin is not only unnecessary but would be chaotic. An exchange cannot be subject to regulation by the state and federal governments. We seriously question the constitutionality of any attempt by the ATCP to regulate NCE when in fact its regulation has been preempted by the United States.

As we are sure you are aware, the National Cheese Exchange is a non-stock, non-profit corporation organized and operating for the purpose of providing those who deal in cheese an alternate market for the sale and purchase of cheese in carload lots. A member who has a surplus of cheese can offer that cheese at a trading session and be reasonably assured that he will be able to dispose of that cheese. A buyer of cheese, who needs cheese because of sales commitments, uses the Exchange to purchase cheese with which to fill those commitments. Because of the concentration of buyers and sellers, traders can reasonably be assured that they will be able to sell or purchase cheese. NCE is totally independent from its members. It conducts trading sessions every Friday morning using the open outcry method as auctions are conducted. Thirty minutes

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April 3, 1996
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has been found to be adequate for its members to complete their business. If trading is active, the presiding officer has authority to extend trading for whatever time it takes to come to rest.

Many companies use Cheese Exchange transactions in formulating their buying and selling prices. It should be kept in mind that NCE does not now and never has claimed that its transactions reflect the value of cheese at any particular time and that the Exchange itself does not issue quotations or opinions. Most importantly, sellers and buyers of cheese off the Exchange are not compelled to accept Cheese Exchange transactions as part of any formula used in arriving at selling or buying prices. The pricing of cheese is negotiated between buyers and sellers, a process in which the NCE does not participate. The Exchange, however, is intent on providing a free marketplace where the law of supply and demand can function unimpaired. Its rules prohibit market manipulation by any trader and any suggestions to ensure the accomplishment of this objective have always been welcome.

With respect to the proposed rules, we have the following comments:

It is the opinion of the Board of Directors and other responsible members of the NCE that the aforesaid proposed rules will discourage and stifle trading.

Under these proposed rules, a seller of cheese on NCE must be prepared to establish that the price at which he sells is not less than that which he could have received for that cheese, at the same approximate time, off the Exchange. A buyer of cheese on the NCE must be prepared to establish that the price at which he purchases cheese is not higher than that which he could have obtained for that cheese, at the same approximate time, off the Exchange.

It is conceded by the authors of the Report that there is no reliable price discovery mechanism other than NCE for the cheese industry. How, then, can a buyer establish that his selling or buying price on the Exchange was no higher or no lower than that for which he could have sold or bought his cheese off the Exchange?

In addition to the inability for a trader to determine what he could have obtained or sold cheese for off the Exchange, the term "at the same approximate time" is vague and uncertain. Does it mean the day of the NCE trading session? The day before the NCE trading session? During the week preceding or following the NCE trading session? Or some other period of time?

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Page 4

Why would anyone attempt to buy or sell cheese on the Exchange subject to regulations that are vague, uncertain, with unreasonable burdens of proof and subject to severe penalties if violated.

A violation of these regulations will subject traders to possible court injunctions, civil forfeitures, criminal penalties, and lawsuits for recovery of double damages, costs and attorneys fees.

No serious buyer would attend a trading session and bid for cheese if he knew that he might have to prove at a later date that every bid he made was at the same or higher level than he could have purchased it for off the Exchange "at the same approximate time."

No serious seller would attend a trading session if he knew that he might have to prove at a later date that every offer he made was at the same or higher level than he could sell it for off the Exchange "at the same approximate time."

Further, no serious seller of cheese would attend a trading session if he knew that it might be claimed at a later date that off the Exchange he was engaged primarily as a buyer of cheese. No serious buyer of cheese would attend a trading session if he knew that it could be claimed at a later date that off the Exchange he was engaged primarily as a seller of cheese. Our members are dealers. Market conditions determine whether or not they sell or buy. Members of this industry are not categorized as primarily buyers or primarily sellers. Such a rule is incapable of being intelligently and fairly enforced.

At NCE, when a trader wants to buy cheese and none is offered, he will bid for the cheese and state the price he will pay. If no one present at that trading session fills that bid at that price, the trader may increase his price and so on until he bids his maximum price or at a price acceptable to a seller resulting in a sale. If a seller wants to sell his cheese, he will adjust his offering price downward to his lowest acceptable price or until a buyer is found. It is nothing more than an auction.

If these regulations are enacted, we are certain that our members will conclude that attempting to trade on NCE will not only be a useless act but, in addition, subject traders who bought or sold cheese at prices above or below transactions off the Exchange to prosecution by ATCP.

We are aware that there is considerable political pressure to replace NCE. The NCE has received recently and in the past, much negative publicity through press releases and newspaper headlines.

Board of Agriculture,
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April 3, 1996
Page 5

We enclose copy of a letter dated March 22, 1996, which the NCE Directors sent to its members and to others in response to the Report. The bottom line of this Report is that the authors of the Report feel that there is a need to either replace the Exchange or enhance its competitive performance. The authors of this Report admit that, after four and one-half years of study, they found no evidence of collusion of price fixing amongst its traders. The authors express nothing more than a hypotheses that one of its members, Kraft, may have engaged in price manipulation.

We respectfully submit that this Report has no factual basis that would sustain adopting these proposed regulations, the result of which will be to eliminate the only cash market for cheese in the United States.

Yours very truly,

NATIONAL CHEESE EXCHANGE, INC.

By:

R. J. Gould, President

RJG/bsh

NATIONAL CHEESE EXCHANGE, INC.

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RICHARD J. GOULD
PRESIDENT

March 22, 1996

TO ALL MEMBERS OF THE NATIONAL CHEESE EXCHANGE, INC.

The National Cheese Exchange (NCE) is again being subjected to a flurry of unfavorable media and press releases emanating this time from the Wisconsin Department of Agriculture (Department), Senators Kohl and Feingold and other politicians.

As a result of a four-year study of the National Cheese Exchange prepared for the Department, for the purpose of determining whether there existed possible unfair trade practices or methods of competition in the pricing of cheese, the Department has released a 265-page report hypothecating that Kraft, through domination of the industry and its buying and selling cheese at NCE trading sessions, has manipulated prices for its own benefit and that NCE, as presently organized, appears to facilitate market manipulation.

Kraft has strenuously denied any attempt to manipulate trading at the Exchange as well as other adverse statements in the report and NCE feels that Kraft is more than capable of defending itself. However, the allegation that the NCE appears to facilitate market manipulation cannot be left unchallenged.

The quality of this Department report and the manner in which its release was timed and orchestrated with press conferences, press releases and obviously advance releases of the report to the press and politicians demonstrates that the Department had a predetermined desired result from this study and obviously felt that media hype was necessary in the hope that it would divert the public and law makers away from a careful reading of this report which would reveal the unsubstantiated charges based upon weak hypothecations of the professors who prepared the report, none of whom appear to have had any experience or background in the cheese industry.

After four years of work on this report, these professors admit they have failed to produce any facts to substantiate these charges. They come up with hypothecations.

According to Webster's Dictionary, the word hypothesis implies insufficient evidence to provide more than a tentative explanation.

The Department has demonstrated basic unfairness in the manner in which it has hyped this report as though there have been

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substantial revelations with respect to improper trading practices of its members. Unwarranted attacks such as this result from the average person's poor understanding of the NCE. For example, the Milwaukee Journal-Sentinel reported that the Department attributes to this investigation an increase in recent years' NCE trading activity. Such a ridiculous assertion hardly deserves comment.

It should be made clear, first and very importantly, that this study emphasizes that no evidence of collusion among cheese companies was found. Secondly, the authors of this report expressly state that they did not presume to determine whether Kraft's alleged conduct met the standards of legal proof required for a finding of price manipulation under the federal or Wisconsin antitrust and unfair competition statutes. We cannot believe that the Department lawyers did not review the hypotheses of the authors. We submit that had the Department lawyers been able to find legal proof, the report would have so stated. Further, Professor Mueller, who we understand was the principal author, is touted as an antitrust expert and one would expect him to be able to recognize illegal antitrust and/or unfair competition activities had it existed. Despite the disclaimers by the authors of finding any evidence sufficient to charge any member with price manipulation, the Department, in a press release, has stated that this report "raises serious concerns" about the National Cheese Exchange and the report states that the study found a need to "replace the Exchange or enhance its competitive performance." Other than the hypotheses of the authors, there is no factual basis for these maligning statements. This language again plays on the lack of understanding of the public as to what is fact and what is opinion. Unfortunately, no matter what is now published in defense of the Exchange, its reputation has been tarnished based upon the mere opinion of the professors, who profess to speak for the Department. One would expect that a major arm of the state government would act more responsibly.

The report recognizes that this Exchange does play an important role in the pricing of bulk cheese. NCE is and has always been aware of this fact and has acted responsibly and appropriately to protect its integrity and has enacted rules for the purpose of prohibiting price manipulation by any member. In the past the Exchange has suspended and reprimanded members for conduct that had even the appearance of price manipulation. However, neither this Exchange nor any responsible unit of government would charge an individual or corporation with market manipulation on the basis of the hypotheses of university professors such as has been done in this so-called study.

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The Exchange provides the facilities for those who have cheese to sell to dispose of it and for those who have need for cheese to acquire it. That is its only function. The fact that it is felt by most members of the industry that it is an accurate barometer of the value of cheese is an unintended side effect. The Exchange does not express an opinion as to the value of cheese. No one is required to accept Exchange transactions as a pricing mechanism. NCE has come to be used as a pricing mechanism because of its reputation for integrity, of which it is proud and which it jealously guards.

Through the release of this Department of Agriculture report and the accompanying press releases and press conferences, the Department has given the impression of wrongdoing at NCE trading sessions by one of its members. A cursory reading of the report reveals that the authors found no evidence of collusion and they admit that they have not determined whether the alleged "trading against interest" by Kraft meets the standards of legal proof required for a finding of price manipulation. This is unfair to both the Exchange and to Kraft and appears to be a pandering to those who persist on claiming that cheese prices (when they decline) are determined by some sort of illegal activity at the National Cheese Exchange trading sessions. No one should be publicly accused of any wrongdoing on the basis of hypotheses.

NCE cheese prices are determined by the laws of the marketplace. It is the avowed purpose of the directors of the NCE that paying and selling prices of cheese should be based on the law of supply and demand in a free marketplace. As presently constituted, NCE provides the framework for pure competition and there can be no worthwhile substitute for selling and paying prices based on competitive bidding and selling by knowledgeable, responsible people who know that they have to pay for in full and deliver promptly that for which they bid for or offer. If a demand for cheese exists, the price will go up. When the opposite is true, prices go down.

The Exchange has in the past been attacked by those who irresponsibly use it as a scapegoat--politicians and critics in the media who spew invalid opinions and negative statements to support baseless attacks and to advance their own agendas.

It is time that NCE members speak out against spurious attacks such as this. We should not let these attacks affect our resolve to continue to improve our operations and continue to serve the cheese industry as we have in the past. We should continue to go ahead with our plans for electronic trading and for protecting the

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anonymity of our traders, which we are pleased to note the Department study now recommends. Above all, we should try to provide explanations to the public of the true manner in which we operate to eliminate the misunderstandings created by this latest "study."

Yours very truly,

NATIONAL CHEESE EXCHANGE, INC.
By Its Officers and Directors

R. J. Gould, President and Director

Bernard Golbach, First Vice
President and Director

Donald Kelly, Second Vice President
and Director

John L. Zehren, Secretary and
Director

Fred Davis, Treasurer and Director

Lee Davis, Director

Don Menzner, Director

RJG/bsh

cc: Governor Tommy Thompson
Secretary of Agriculture



State Senator
Alice Clausing



YIK

December 27, 1996

TO: Legislative Colleagues
FROM: Senator Alice Clausing
RE: Co-sponsorship of LRB 1552/2, relating to regulation of various trading practices on the National Cheese Exchange

The pricing formula for raw milk is based on the price of block cheddar cheese set at the National Cheese Exchange (NCE), which is located in Green Bay. Since October, milk prices have tumbled almost 25% in line with dropping prices paid for cheese at the NCE.

A recent UW study found that major cheese traders have the potential to drive prices down by selling cheese instead of buying as they normally would. As a result, as currently organized, the NCE appears to facilitate market manipulation. Such price manipulation could contribute to the rapid decline in milk prices.

LRB 1552/2 prohibits any actions related to the purchase or sale of cheese on or off the NCE with the intent to manipulate the market price of milk or cheese. It also prohibits "trading against interest", a practice that is more fully explained in the LRB analysis printed on the back of this memo.

Considering the dire circumstances facing our dairy farmers, the state needs to do whatever it can to protect its farmers from unfair trading practices.

If you would like to co-sponsor this legislation, please contact my office at 6-7745 by Thursday, January 9th.



Analysis by the Legislative Reference Bureau

This bill regulates certain trading practices on the National Cheese Exchange, a cash auction market for cheese that is operated by the National Cheese Exchange, Inc. The bill prohibits persons from engaging in any individual action or participating in any collective plan or action related to the purchase or sale of cheese on or off the National Cheese Exchange, with the intent to manipulate artificially the market price of milk or cheese. The bill also prohibits a practice sometimes referred to as "trading against interest" for the purpose, or with the effect, of affecting milk or cheese prices off the National Cheese Exchange. "Trading against interest" means a systematic pattern or practice of any of the following, either directly or through a broker: 1) selling or offering to sell cheese on the National Cheese Exchange at a price that yields a net sale price that is less than the net sale price that the seller or offeror could have received for that cheese, at the same approximate time, off the exchange; 2) buying or bidding to buy cheese on the National Cheese Exchange at a price that yields a net purchase price that is more than the net purchase price that the purchaser or bidder could have received for that cheese, at the same approximate time, off the exchange; 3) acting primarily as a seller or offeror of bulk cheese on the National Cheese Exchange, while acting primarily as a buyer of bulk cheese off the exchange; and 4) acting primarily as a purchaser of or bidder for bulk cheese on the National Cheese Exchange, while acting primarily as a seller of bulk cheese off the exchange.

Violations of the trading practices prohibitions created in this bill have the same legal effect as a violation of an order issued by the department of agriculture, trade and consumer protection (DATCP). As a result, violations of the prohibitions are subject to possible court injunctions, civil forfeitures and criminal penalties. In addition, persons suffering a monetary loss because of a violation may also sue the violator directly and may recover double damages, costs and reasonable attorney fees.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

NEWS

UNITED STATES DEPARTMENT OF AGRICULTURE
Office of Communications News Room 460-A
Washington, DC 20250-1300
Internet: News @usda.gov Phone: 202-720-9035
World Wide Web Home Page: <http://www.usda.gov>

Release No.0003.97

Tom Amontree (202) 720-4623
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USDA ANNOUNCES ACTIONS TO HELP STABILIZE MILK PRICES

NASHVILLE, Jan. 7, 1997--U.S. Agriculture Secretary Dan Glickman today announced that he is taking several actions to strengthen farm-level milk prices. This past year dairy producers have faced record-high feed costs, reduced forage supplies and abnormally low culled cow and calf prices.

"Milk prices have declined sharply in recent months and dairy producers are very concerned about the future of their industry," Glickman said. "Based on my assessment of the dairy market situation and recent meetings with producer, processor and consumer organizations, I am directing the Department to take several short-term actions to help stabilize farm milk prices."

The actions Glickman announced today include:

- USDA will purchase \$5 million worth of cheese for use in domestic food assistance programs. This is in addition to the accelerated school lunch purchases already underway. USDA also will explore making additional purchases for other food assistance programs.
- USDA will work with private voluntary groups to increase the flow of dairy products into our international food assistance programs.
- To stimulate exports, USDA will reactivate the Dairy Export Incentive Program (DEIP) for butterfat, which has been idle since mid-1995. USDA also has stepped up DEIP sales activity for non-fat dry milk. In addition, the Department is actively working with private voluntary organizations to increase utilization of dairy products in USDA international food assistance programs.
- Beginning this month, USDA's National Agricultural Statistics Service will begin collecting data for a national survey of cheddar cheese prices received by manufacturing plants. This is in response to concerns about the accuracy of reported prices. USDA also will review its use of National Cheese Exchange prices as part of Congress' mandate to reform and consolidate federal milk marketing orders by 1999.

"These actions will help to strengthen a dairy market that for the most part appears to have a solid foundation," Glickman said. Milk production last month was basically unchanged from one year ago following year-over-year monthly declines most of the year. And, despite the recent slowdown in commercial demand caused by double-digit increases in retail dairy product prices, demand for dairy products continues to exhibit steady annual gains.

"I understand that some would like to see USDA use the marketing order program as a price support program," Glickman said. "There are two compelling reasons why I cannot. First, in the Farm Bill, Congress instructed me to phase out price supports. Second, placing a rigid floor under fluid milk prices would have widely different effects in different regions of the country and would likely raise prices for consumers and reduce sales -- running counter to our intent."

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The Basic Formula Price (BFP) for milk for November fell to \$11.61 per cwt., a \$2.52 per cwt. drop from the previous month and a decline of more than \$1.25 per cwt., compared with one year ago. The BFP declined further in December to \$11.34 per cwt., \$1.57 below the same month last year. The record drop in the BFP during November followed very large declines in wholesale dairy product prices. In September, the BFP peaked at a record \$15.37 per cwt. and, for all of 1996, the all-milk price is estimated at a record \$14.70 to \$14.80 per cwt., about \$2 per cwt. above last year and \$1 per cwt. above the previous record.

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NOTE: USDA news releases and media advisories are available on the Internet. Access the USDA Home Page on the World Wide Web at <http://www.usda.gov>

NEWS

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World Wide Web Home Page: <http://www.usda.gov>

Release No. 0019.97

Jim Petterson (202) 720-4623
Connie Crunkleton (202) 720-8998

USDA SEEKS COMMENT ON USE OF NATIONAL CHEESE EXCHANGE DATA IN DETERMINATION OF MILK PRICES

WASHINGTON, Jan. 29, 1997--Agriculture Secretary Dan Glickman today announced he is taking steps to address concerns raised by dairy producers about how milk prices are calculated.

Glickman is seeking public comment on whether National Cheese Exchange (NCE) price data should be used in the determination of the Basic Formula Price (BFP) used in federal milk marketing orders. This action is in addition to the process currently underway in the Department to consolidate and reform federal milk marketing orders by April 1999, as mandated by the 1996 Farm Bill.

The BFP is determined by USDA each month based on a formula that uses the previous month's producer price paid by unregulated manufacturing plants in Minnesota and Wisconsin, adjusted for changes in dairy product prices between the previous and current month. The price of cheese on the NCE is used in this adjustment.

The BFP serves as the price that handlers must pay dairy farmers for milk used to manufacture Class III products (i.e., butter, nonfat dry milk powder, cheese) under the federal milk marketing order program. It also is used to arrive at the price that processors must pay dairy farmers for milk consumed as fluid milk and soft products usage of milk (i.e., yogurt, ice cream).

"Many dairy producers and producer organizations, as well as Senators Kohl and Feingold and Congressman Obey, have indicated their concern with using NCE prices to establish the BFP," Glickman said. "There are concerns that NCE prices may not be reflective of market conditions for cheese nationally, because only a very small share of total U.S. cheese is traded on the NCE, and NCE prices have been subject to abnormally high volatility."

"We must address these concerns now so that dairy producers have confidence that the prices they receive reflect market conditions," Glickman said. "We cannot wait until April 1999 to address this issue. Based on the comments we receive, we will determine whether we should proceed with a national hearing on replacing NCE prices in establishing the BFP."

In response to concerns about the accuracy of reported prices, this month, USDA's National Agricultural Statistics Service (NASS) will begin conducting a national survey of cheddar cheese prices. "We must have broad participation in the survey if it is to be useful to the dairy industry and to be considered as a possible substitute for NCE prices," Glickman said.

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The Department will continue to review the BFP as part of Congress' mandate in the 1996 Farm Bill to reform and consolidate federal milk marketing orders. During the next several weeks, in preparation for meeting the April 1999 deadline, USDA will release several studies addressing options for milk order reform, including the role of the BFP and other longer-term pricing issues.

Interested parties wishing to comment on the use of NCE prices in the determination of the BFP may send their comments to: Dairy Division, AMS, USDA; ATTN: BFP Evaluation; Room 2968-S; PO Box 96456; Washington, DC 20090-6456. Comments should be postmarked not later than March 31, 1997.

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International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

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NEWS RELEASE
For Immediate Release

Contact: Susan Ruland - NCI
(202) 737-4332

**NCI/NCE Recommend Opening
New Cheese Cash Market on the Chicago Mercantile Exchange**

(Washington, D.C.--March 20, 1997) The Executive Committee of the National Cheese Institute (NCI) and the board of the National Cheese Exchange (NCE) today announced that they have accepted a proposal from the Chicago Mercantile Exchange to create a new cheese cash market. The new market is expected to open for trading on May 2. It is expected that the last day of trading on the National Cheese Exchange (NCE) in Green Bay, Wis., will be Friday, April 25, 1997.

"The opening of this new market is a major step toward expanded and enhanced dairy commodity markets," said Larry Jensen of Leprino Foods, one of the co-chairmen of an industry committee that reviewed alternative proposals. "The CME is one of the world's largest commodity exchanges with the experience, expertise and safeguards to ensure the integrity of trading."

The organizations based their decision on the recommendation of a special cheese industry committee with broad industry representation, including producer cooperatives, cheese manufacturers and marketers, and members of NCI and of the NCE board. The committee was charged with seeking a new cash exchange for the cheese industry. The committee considered two proposals, one from the Chicago Mercantile Exchange (CME), and the other from the Coffee, Sugar & Cocoa Exchange (CSCE) in New York. In the end, geographic location played a major role in choosing the CME.

"Both proposals were excellent -- it was a hard choice," said committee-member Kevin Ruda of Beatrice Cheese. "We finally came to the decision that with the Midwest and West as the center of U.S. cheese production and food manufacturing, Chicago was a better choice for locating a cash market." The committee felt that because of its proximity to the major Midwest cheese production area, the Chicago Mercantile Exchange is more likely to generate more volume on the cheese cash market.

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The committee stressed that CSCE's futures markets -- as well as the anticipated cheese futures contract to be offered by CME within the next 6 to 12 months -- are excellent risk management tools that deserve increased use.

"Our organizations recognize the need for the development of healthy futures markets for dairy," said other committee co-chair Don Kelly of Schreiber Foods Inc. "These contracts have had limited success up until now. The CSCE will begin trading a BFP contract on April 8 that shows great promise -- much of the industry is poised to participate.

"We will continue to strengthen the links between the cash and futures markets, in order to help move the dairy industry another step closer to more viable futures markets for price discovery and risk management purposes," Kelly added.

The trading rules and contract specifications on the new CME cheese cash market will be similar to those of the NCE, but with appropriate changes to invite expanded trading.

"We have to make the transition from the NCE to CME an easy and inviting one for traders, to keep trading volume as high as possible. Therefore, we will start off with one day of trading a week, as we have now," said committee-member Jim Lauderdale of Mid-America Dairymen. "After a brief transition period, extended trading hours and additional trading days will be considered."

The Chicago Mercantile Exchange market offers several immediate advantages over the NCE:

- **Experience with Agricultural Commodity Trading.** The CME has a long history of trading agricultural commodities. Today, it is a trading arena for fed cattle, feeder cattle, hogs, pork bellies, lumber, fluid milk and butter. Average daily volume of trading in these products exceeded 35,000 contracts in 1996.
- **Global Sophistication.** The CME's twin trading floors provide state-of-the-art communication facilities and audio-visual capabilities for trading support. The CME's price reporting systems provide immediate knowledge of all price movements to a world-wide audience.
- **Oversight.** The CME has a successful track record of managing its operations within the federal regulatory system. The CME's Clearing, Legal and Regulatory Divisions monitor trading activities for compliance with Exchange rules and financial requirements.

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This oversight is expected to bolster confidence in the new market for cheese, thereby encouraging increased trade.

- **Anonymous Trading.** Providing for anonymous trading activity through brokers -- the standard method of trading all commodities -- is expected to attract greater participation by existing traders, as well as new participation by companies that were concerned about disclosing competitive information when trading on the NCE. The price and quantity of all trades will be available immediately upon trading.

"As the dairy industry becomes more market-oriented with increased volatility, this is an important step in developing the same risk management tools that are available to other agricultural commodities," said NCI President and CEO E. Linwood Tipton.

More information on the new exchange is available from the Chicago Mercantile Exchange. Contact Annette Wallace at (312) 466-4435. *Worldwide Web: www.cme.com*

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The National Cheese Institute (NCI) is the trade association for manufacturers, processors and distributors of all types of cheese and cheese products. Founded in 1927, NCI has 110 member companies which manufacture approximately 85 percent of U.S. natural and processed cheese and cheese products. NCI's activities range from legislative and regulatory advocacy to market research, education, and training.

Members of NCI/NCF Committee to seek a new cheese cash market:

Larry Jensen, Leprino Foods Co., Co-chair
Don Kelly, Schreiber Foods Inc., Co-Chair
Fred Davis, Borden Inc.
Greg Dryer, Avonmore Cheese Inc.
Bernie Golbach, Masters Gallery Foods Inc.
Betsy Holden, Kraft Foods Inc.
Jim Lauderdale, Mid-America Dairymen Inc.
Don Menzner, Marathon Cheese Corp.
Kevin Ruda, Beatrice Cheese Inc.
Gary Vanic, Land O' Lakes Inc.
John Jeter, Hilmar Cheese Co. Inc.
Don Storhoff, Foremost Farms USA, Cooperative



International Dairy Foods Association
 Milk Industry Foundation
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Q & A's About the New Cash Market

- Q: Is the National Cheese Exchange moving from Green Bay, Wis., to Chicago?**
A: No. The Chicago Mercantile Exchange is announcing plans to establish a new cash market for cheese, to open for trading on May 2, 1997. The establishment of this new cash market for cheese, offering improved opportunities for expanded trading, means there will no longer be a need for trading at the National Cheese Exchange (NCE). Therefore the NCE in Green Bay will cease trading upon the opening of the new CME cash market.
- Q: How will the new cash market be different from the NCE?**
A: The new cash contract will be traded on the Chicago Mercantile Exchange, one of the world's largest commodity exchanges with a long history of experience trading a wide range of agricultural commodities. Trading will be handled through a professional network of brokers, which provides for anonymity of trading participants. (Anonymous trading for the cheese market was recently recommended by Wisconsin Governor Thompson's Task Force on Cheese Pricing.) The trading rules and specs on the new CME cheese cash market will be similar to those of the NCE, thereby encouraging rapid transfer of trading activities from one exchange to the other. After a brief transition period, additional trading hours and/or days will be considered, especially since the format of the new exchange is expected to encourage additional volume.
- Q: Why did the cheese industry choose to support the establishment of a cash market at the Chicago Mercantile Exchange rather than the Coffee, Sugar & Cocoa Exchange?**
A: The Chicago Mercantile Exchange has a long history of trading in perishable agricultural commodities that are produced in the United States. Much of cheese production in the United States is based in the Midwest and West, and many industry members favored locating the cash market, which is for physical delivery of cheese, close to the major production area. At the same time, with regards to futures markets, the cheese industry still feels strongly that all existing futures markets -- those on the Coffee, Sugar & Cocoa Exchange and the CME -- are important to the industry's goals of managing price volatility. The industry is expected to continue working closely with CSCE and CME on building use of futures contracts.
- Q: Will the new cash market be subject to federal regulation?**
A: In general, cash markets are not subject to federal regulation by the Commodity Futures Trading Commission (CFTC). However, the futures trading at the CME is subject to CFTC jurisdiction, so CME has a sophisticated system of internal surveillance and enforcement measures to ensure the integrity of its trading activities. Because the

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new cash cheese market will be at the CME, its trading will be subject to -- and benefit from -- the same high standard of scrutiny as other trading activity at CME. This is one reason for locating the cash market within a diversified commodity trading house.

Q: Do you believe trading volume on this market will be higher and participation will be broader than on the NCE?

A: Yes. We believe that the accessibility of trading through established CME brokers and anonymous trading may encourage more participation, and that, in turn, will lead to increased trading volumes. The CME has pledged to promote the widespread use of this new market and its related benefits through educational programs and promotional materials for all related food sector interests.

Q: Won't anonymous trading let traders hide their actions?

A: Almost all commodities are traded anonymously. Many commentators, including the Wisconsin Governor's task force, recommended anonymous trading for cheese with the intention of expanding trading. Established exchanges like the CME, as well as government regulators such as the CFTC, have decades of experience in ensuring the integrity of anonymously traded commodity contracts.

Q: Will the location of the cash market at the CME affect trading activity in existing dairy futures?

A: Not necessarily. There are currently dairy futures contracts at both the CME and the Coffee, Sugar & Cocoa Exchange in New York. The CME's range of market activities includes trade in futures and options, as well as contracts for physical delivery of product. We encourage expanded trading activity in futures contracts wherever traders are comfortable. The Coffee, Sugar & Cocoa Exchange will begin trading a new future contract, the BFP contract, on April 8, 1997. There is great interest in this new contract, and the industry is expected to use it extensively as a new opportunity for risk management. In addition, we anticipate the CME to offer new dairy futures contracts, including one in cheese, in the next 6 to 12 months. We support all efforts to strengthen the tools for risk management and price discovery in the dairy sector.

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