

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Agriculture and
Environmental
Resources
(SC-AER)

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- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

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WISCONSIN FARM BUREAU FEDERATION

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Testimony of the

WISCONSIN FARM BUREAU FEDERATION

on **Senate Bill 2** before the
Senate Committee On Agriculture And Environmental Resources
January 21, 1997

Chairperson Clausing and Committee Members, Hello.

I am Dave Daniels, a dairy farmer from Kenosha and Chairman of the Wisconsin Farm Bureau Dairy Advisory Committee. On behalf of the Wisconsin Farm Bureau, wish to testify for information only on Senate Bill 2.

Wisconsin Farm Bureau policy states, "Milk should not be priced by the sale of cheese at the National Cheese Exchange in Green Bay." Farm Bureau members firmly believe that the United States Department of Agriculture should not use the National Cheese Exchange as a price discovery mechanism for determining dairy farmer milk prices. Farm Bureau members recognize that this is a national issue that needs to be addressed through federal order reform. The Wisconsin Farm Bureau, along with numerous other dairy interests as part of the Upper Midwest Dairy Coalition, are working together to achieve changes in milk pricing that is of concern to every Wisconsin dairy farmer.

While we appreciate efforts to improve Wisconsin's dairy industry, Senate Bill 2, as currently drafted, actually could harm Wisconsin dairy farmers. To illustrate, farmer owned cooperatives would be prevented from purchasing cheese on the exchange at a higher price if cheese could be purchased off the exchange a lower price. Recently three major farmer owned dairy cooperatives discussed forming a joint purchasing effort to purchase cheese for sale on the National Cheese Exchange with the intent to enhance farmer income. Senate Bill 2 would then open these cooperatives up to potential lawsuit for trading against interest. This would not be in the best interest of Wisconsin dairy farmers.

Farm Bureau would support legislation that prohibits price manipulation and is willing to work with you in drafting appropriate legislation that will accomplish this goal.

It is the position of the Wisconsin Farm Bureau that regulatory oversight of the National Cheese Exchange should be done at the Federal level. Over the last three farm bills, the Wisconsin Farm Bureau has requested Congress and the USDA to change our federal dairy pricing system. Farm Bureau welcomes the support of dairy producers to make this happen.

Thank you for the opportunity to testify. I will gladly answer any questions.



Wisconsin Cheese Makers Association

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Testimony of the Wisconsin Cheese Makers Association

January 21, 1997

before the Senate Agriculture and Environmental Resources

Wisconsin Cheese Makers Association represents 85 Wisconsin companies that make cheese or process and market cheese for sale throughout the United States.

On behalf of those companies, I request that this committee **not** forward this bill to the Wisconsin Senate. By restricting and possibly penalizing traders at the National Cheese Exchange, this bill will worsen what it hopes to improve. Few if any firms can buy and sell cheese under conditions of this bill, making the Exchange an even more "thin" market, or rendering it useless.

Both reforms for the National Cheese Exchange and formation of alternative cash markets are underway in the dairy industry. These changes can improve volume of cash cheese sales. This bill will disrupt an orderly reform and needlessly throw national cheese and milk pricing into confusion.

1997 looks like a promising year for milk prices. The U.S. Department of Agriculture predicts a strong all-milk price of \$13.65 – 75 cents higher than the average of prices from 1990 through 1995. Early this year, difficult weather and USDA intervention to purchase \$5 million worth of cheese will combine to stabilize and even improve cheese and milk prices in the coming months.

Wisconsin Cheese Makers Association asks this committee to avoid responding to a short-term drop in milk prices with legislation that will damage U.S. milk and cheese pricing. We ask that you support reforms drafted by the Governor's Task Force on Cheese Pricing. We ask your support the Upper Midwest Dairy Coalition as it works to reform federal milk pricing.

Testimony of Mid-America Dairymen, Inc.

Regarding Senate Bill 2

1997 Wisconsin Legislature

Bill V. Brooks, Director

Statistical Analysis & Commodity Research

January 21, 1997

Members of the committee, it is my pleasure to be here today to state the position of Mid-America Dairymen, Inc. relative to Senate Bill 2. Mid-America Dairymen, Inc. supports the DAIRY INDUSTRY STATEMENT ON PROPOSED WISCONSIN LEGISLATION REGARDING NATIONAL CHEESE EXCHANGE TRADING PRACTICES. My testimony is intended to supplement this position.

My name is Bill V. Brooks. I am employed by Mid-America Dairymen, Inc. in Springfield, Missouri. Mid-America Dairymen, Inc. is a dairy cooperative representing over 17,000 dairy farmers located in more than 30 states across the continental United States. Approximately 2,700 of these dairy farms are located in the State of Wisconsin and collectively produce about 1.8 billion pounds of milk per year. During 1997 we will market more than 22 billion pounds of milk.

Mid-America Dairymen, Inc. is a major producer and marketer of a variety of cheeses. We market cheese produced in our own facilities in a number of varieties and package sizes to a broad customer base throughout the United States with some International sales. In addition to the cheese we produce, we buy significant quantities of cheese from outside sources. Our outside cheese purchases are accomplished in two ways. A portion of our cheese is bought from firms on a regular committed basis which is supplemented with additional spot purchases from either those firms or other suppliers. In addition to those purchases, we buy significant quantities of cheese at the National Cheese Exchange. Our reason for buying cheese from outside sources is that our sales and marketing program has advanced to the point that we presently, and have for a number of years, sold more cheese than we produce internally.

We would encourage this committee to delay further action on Senate Bill 2 for the following reasons:

First, the National Cheese Exchange has for many years provided a barometer of supply and demand and provides an open-market forum where both buyers and sellers of cheese can come to establish a cash-market opinion. The market opinion established through this process is used widely as the basis for establishing buying and selling prices for cheese transactions made routinely throughout the year. We believe the National Cheese Exchange has served as a valid price discovery mechanism that reflects supply/demand conditions for block cheese and barrel cheese. While we believe the National Cheese Exchange has been an accurate reflection of supply and demand, we believe passage of Senate Bill 2 would result in a loss of that reflection in supply and demand as it would prevent both buyers and sellers of cheese from accurately and adequately reflecting their needs.

Secondly, the National Cheese Exchange has come under extreme criticism in recent years. Part of this criticism has been due to the small percent of cheese that is traded on the Exchange in relation to total cheese produced and marketed. While the percentage is small, the firms who buy and sell cheese on the National Cheese Exchange represent a high percentage of the total production and utilization of cheese in the United States. Therefore, as supply and demand conditions change, those firms and their actions are an accurate reflection of

market conditions and thus the price discovery mechanism flowing from those conditions do reflect the reasonable and actual value of cheeses to such participants.

In order to help overcome the criticism, the Exchange and its board is considering actions to help increase trading levels at the Exchange. A study is under way to incorporate electronic trading into the National Cheese Exchange which will, hopefully, make trading easier and more accessible for individuals who do not want to either be present or have a person represent them at Green Bay each Friday during the market period.

Third, other studies and evaluations are being made which could be a replacement for or a supplement to the National Cheese Exchange as a price discovery mechanism for cheese. A working committee has been appointed to work with and explore the possibility of a cash market being established through the Coffee, Cocoa and Sugar Exchange. A key this committee will be evaluating is how such a market would work and whether it, in fact, would be an improvement or a more accurate reflection of supply and demand than what is presently offered through the National Cheese Exchange.

Also, on January 7, 1997 U.S. Secretary of Agriculture, Dan Glickman, announced USDA's National Agricultural Statistics Service will immediately begin collecting data for a national survey of cheddar cheese prices received by manufacturing plants.

This should offer additional information on cheddar cheese price discovery. As a part of the 1996 FAIR Act mandating the reform and consolidation of Federal Milk Marketing Orders, USDA will review it's use of the prices reported by the National Cheese Exchange.

In summary, we believe that the National Cheese Exchange is a viable mechanism for price discovery. We believe it is a reflection of supply and demand conditions for the product traded. The volatility that has been experienced in this market, as well as other dairy product markets in recent years, is a reflection of conditions that will prevail as we move toward a more deregulated market. We support any action that will result in improvements in the price discovery tools used in the dairy industry. However, we do not believe that Senate Bill 2 will result in such improvements. Instead, we believe implementation of this bill would impose restrictions on the industry's ability, whether cooperative or proprietary, to effectively participate in the open-market price discovery provided by the National Cheese Exchange. Therefore, we recommend the Wisconsin legislature delay further action relative to the proposed bill until such time as other studies are complete and the impact of implementing the provisions of the proposed bill are studied and all concerned have a more detailed understanding of the impact of passage of the bill.

Thank you for the opportunity to attend this hearing and convey the position of Mid-America Dairymen, Inc. regarding Senate Bill 2.

**Prepared Testimony of
Alan T. Tracy, Secretary
Wisconsin Department of Agriculture,
Trade and Consumer Protection
before the Senate Committee on
Agriculture and Environmental Resources
on 1997 SB 2**

January 21, 1997

Good morning Senator Clausing and members of the committee. Thank you for inviting me to appear before this committee to comment on SB 2. This bill prohibits "trading against interest" on the National Cheese Exchange and any actions on or off the Exchange intended to manipulate the market price of milk or cheese.

This bill is very similar to a proposed administrative rule for which our department asked the Board of Agriculture, Trade and Consumer Protection (ATCP) to authorize public hearings. Our department proposed the rule as one of many options to address problems identified by researchers at the University of Wisconsin-Madison in their report on cheese pricing and trading practices on the National Cheese Exchange. The report, released in March, 1996, was prepared at our request and with our cooperation, under our authority to investigate business practices in Wisconsin.

The ATCP Board considered action on the proposed rule in April, 1996. At that same time, the Governor announced that he would be forming a task force to "make recommendations to improve the current cheese pricing system for the benefit of the dairy industry and consumers." The Board decided to refer the rule to the Governor's Task Force for its review and recommendations.

The Governor's Task Force on Cheese Pricing completed its work and submitted its report to Governor Thompson on January 2, 1997. I believe each member of the Legislature has been sent a copy of the report; I have brought extra copies of the Task Force's report.

The Task Force has provided the Governor with a set of positive, constructive recommendations for improving the current system for cheese and milk pricing. The Task Force considered the proposed rule to prohibit trading against interest and voted 13-3 against recommending that the rule proceed. The primary reason the Task Force voted against the rule was the recognition that the likely consequence of the rule would simply be that the National Cheese Exchange would feel compelled to move out of Wisconsin. Task Force members felt that if regulation of the Exchange is warranted, it should occur at the federal level. The Task Force recommended that the Governor ask the Commodity Futures Trading Commission and the Federal Trade Commission to re-evaluate their regulatory authorities concerning the National Cheese Exchange.

In addition to the recommendation for federal regulatory oversight of the Exchange, the Task Force on Cheese Pricing has made several other recommendations that I believe will bring about constructive improvements to the cheese and milk pricing systems. The Task Force is recommending that the U.S. Department of Agriculture no longer use the National Cheese Exchange price in determining the basic formula price for milk under Federal Milk Marketing Orders. The price of milk should be based on the supply of and

demand for milk used in the manufacture of all dairy products. The Task Force has offered several ideas on how this could be accomplished. The task force is also recommending that USDA improve and expand its weekly information series on the cheese "spot" market, to provide better market information on actual supply and demand conditions for cheese.

The Task Force has made four recommendations for improving public confidence in, access to and participation in trading on the National Cheese Exchange: 1) that the NCE board consider including one or more public persons (i.e., non-NCE members) on their board; 2) that the NCE board consider imposing a limit on the daily price movement of NCE prices; 3) that the identities of buyers and sellers should be anonymous during trading; and 4) that the NCE board consider implementing more frequent trading sessions once remote electronic access to trading sessions is in place. The NCE plans to implement remote access to trading sometime in 1997.

Governor Thompson will be leading a delegation of farmers to Washington, D.C. in early February to advance the relevant Task Force recommendations with the USDA, our Wisconsin Congressional delegation, the Commodity Futures Trading Commission and the Federal Trade Commission. I believe that providing positive action is the direction we should be taking at this time. I would recommend to this committee and to the Legislature to pass a resolution to the U.S. Congress urging federal reform of milk

pricing, improved market information services and federal regulatory oversight of the Exchange.

I commend the committee for your interest and involvement in this issue. However, I respectfully submit that the passage of SB 2 would serve no constructive purpose at this time. I encourage your active support for the meaningful and positive proposals the Task Force has developed.

I would be happy to answer any questions that members of the committee may have.



JAMES C. SARTORI
President and
Chief Executive Officer

DRAFT TESTIMONY TO BE PRESENTED IN WISCONSIN SENATE ON JANUARY 21

GOOD MORNING. MY NAME IS JIM SARTORI.

I AM PRESIDENT AND CEO OF SARTORI FOODS, A FAMILY OWNED CHEESE AND FOOD COMPANY LOCATED IN PLYMOUTH, WISCONSIN.

I AM A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CHEESE INSTITUTE ON WHOSE BEHALF I AM APPEARING TODAY.

THE NATIONAL CHEESE INSTITUTE REPRESENTS CHEESE MANUFACTURERS, PROCESSORS AND DISTRIBUTORS LOCATED ALL ACROSS THE NATION.

THE CHEESE INDUSTRY IS GRAVELY CONCERNED ABOUT THE LEGISLATION THAT IS THE SUBJECT OF THIS HEARING TODAY BECAUSE OF ITS POTENTIALLY DAMAGING EFFECTS ON CHEESE COMPANIES AND ON THE DAIRY INDUSTRY IN GENERAL. THE NATIONAL CHEESE INSTITUTE BELIEVES THE NATIONAL CHEESE EXCHANGE ACCURATELY REFLECTS COMPETITIVE SUPPLY AND DEMAND CONDITIONS NATIONALLY.

THE NATIONAL CHEESE EXCHANGE PROVIDES AN IMPORTANT MARKET FOR THE BUYERS AND SELLERS OF CHEESE. THE CHEESE INDUSTRY, JUST LIKE OTHER COMMODITY INDUSTRIES, NEEDS AN ALTERNATIVE MARKET SUCH AS THIS. THIS IS CRUCIAL TO THE INDUSTRY. THE EXCHANGE IS ALSO USED AS PART OF THE FORMULA FOR SETTING MILK PRICES THROUGHOUT THE INDUSTRY. ELIMINATING THE BASIS FOR FEDERAL AND STATE ORDER PRICING WOULD BE DEVASTATING FOR THE CHEESE INDUSTRY AND FOR DAIRY FARMERS. MEMBERS OF THE NATIONAL CHEESE INSTITUTE BELIEVE IT IS ESSENTIAL THAT THE NATIONAL CHEESE EXCHANGE NOT BE DISMANTLED, AND ESPECIALLY WITHOUT AN ALTERNATIVE MARKET AND PRICE DISCOVERY MECHANISM IN PLACE.

THE LEGISLATION UNDER CONSIDERATION TODAY, IF PASSED, WOULD EFFECTIVELY ELIMINATE TRADING ON THE NATIONAL CHEESE EXCHANGE. THE LANGUAGE IN THE BILL THAT DISCUSSES "TRADING AGAINST INTEREST" REQUIRES THAT SALES ON THE EXCHANGE BE NOT LESS THAN THE SALE PRICE THAT COULD HAVE BEEN RECEIVED ELSEWHERE; PURCHASES ON THE EXCHANGE BE NOT MORE THAN THE PURCHASE PRICE THAT COULD HAVE BEEN RECEIVED ELSEWHERE. SUCH MARKET OPPORTUNITIES FOR SALES AND PURCHASES MAY OR MAY NOT EXIST, YET PENALTIES FOR VIOLATIONS ARE SEVERE. NO COMPANY WILL WANT TO RISK THESE PENALTIES. THE RESULT WILL BE FEW, IF ANY, TRADERS ON THE EXCHANGE, ESSENTIALLY ELIMINATING A VIABLE CASH MARKET FOR CHEESE COMPANIES WHO USE IT AS AN ALTERNATE MARKET FOR THE SALE AND PURCHASE OF CHEESE.

IN ADDITION, BOTH PRIVATE CONTRACTS AND GOVERNMENT REGULATED PRICING ARE LINKED TO THE NATIONAL CHEESE EXCHANGE PRICES.

IT WOULD BE EXTREMELY DISRUPTIVE, EVEN CHAOTIC, TO DISSOLVE THIS PRICING MECHANISM WITHOUT ANY ALTERNATIVE IN PLACE.

THE NATIONAL CHEESE INSTITUTE HAS COMMITTED TO HIRING A COMMODITY MARKET EXPERT IMMEDIATELY TO ASSIST IN EVALUATING ALTERNATIVES TO THE NATIONAL CHEESE EXCHANGE THAT WILL WORK.

WE PLAN TO ADDRESS THE ISSUES OF IMPROVING THE EXCHANGE WITH A REPLACEMENT THAT WILL HAVE OVERSIGHT BY AN OFFICIAL GOVERNMENT AGENCY, PROVIDE MECHANISMS TO INCREASE PARTICIPATION SUCH AS ELECTRONIC TRADING, MORE FREQUENT TRADING, AND ANONYMOUS TRADING SUCH AS EXIST TODAY ON OTHER COMMODITY EXCHANGES, AND WILL COMBINE CASH AND FUTURES MARKETS SO THAT THE EXCHANGE WILL ENCOURAGE INCREASED INDUSTRY USE OF PRICE RISK MANAGEMENT OPPORTUNITIES.

WE BELIEVE GREATER USE OF SUCH A MARKET, BOTH FOR CURRENT BUYING AND SELLING AND FOR PRICE RISK MANAGEMENT, WILL BE BENEFICIAL TO THE ENTIRE DAIRY INDUSTRY AS WE ARE INCREASINGLY WORKING IN A MORE DYNAMIC DAIRY MARKET.

IN SUMMARY, WE URGE THIS COMMITTEE NOT TO MOVE FORWARD WITH HASTY LEGISLATION THAT, WHILE POSSIBLY WELL INTENDED, MAY BE EXTREMELY DETRIMENTAL TO THE ENTIRE DAIRY INDUSTRY.

Thank you.

Testimony
Foremost Farms USA
Agriculture and Environmental Resources Committee Hearing
on Senate Bill 2
January 21, 1997

My name is Joan Behr and I am representing Foremost Farms USA Cooperative, based in Baraboo, WI. Foremost Farms is a dairy cooperative owned by dairy farmers who live in seven Midwest states including Wisconsin. Of the 32 facilities owned by our members, 16 of them are cheese plants. In 1996, Foremost Farms produced 485 million pounds of cheese. Cheese sales amounted to \$700 million or just over 52 percent of the cooperative's total sales revenue.

As a major seller of cheese, Foremost Farms is opposed to this legislation because it would prohibit us from participating as a buyer of cheese on the Exchange. As recently as this fall, we ran short of cheese to meet our commitments to customers. In order to fill those orders, Foremost purchased cheese at the National Cheese Exchange. It allowed us to honor commitments we had made to customers earlier in the year. Had we not been able to meet our customers' needs, they would have looked to another supplier for their cheese. The cost to the members of Foremost Farms would have been lost sales and shattered long-term business relationships.

Wisconsin is losing its edge as the most significant manufacturer of cheese. The cheese processors of the West Coast have proven that they are viable competitors. With lower input costs, West Coast processors can compete for markets traditionally served by Midwest processors.

Rather than advancing Senate Bill 2, we ask that you allow the industry to pursue the viable alternatives that have been brought forth through various task forces that have been addressing this issue. Those alternatives are:

- oversight by an official government agency
- mechanisms to increase participation such as electronic trading, more frequent trading, and anonymous trading
- combining cash and futures markets to increase industry use of price risk management opportunities

Foremost Farms supports prompt action in regard to these alternatives so that we can improve the only national cash market for cheese that is currently available. Passing this piece of legislation will only bring more disruption to the volatility that our industry -- farmers and processors -- is currently experiencing.

Testimony of

James Bird, General Manager Of Milwaukee Milk Producers

Representing National Milk Producers Federation

To the

Wisconsin State Senate
Committee on Agriculture and Environmental Resources

Hearing on Senate Bill 2

January 21st, 1997

Good morning: My name is Jim Bird General Manager of Milwaukee Milk Producers representing not only my position but that of National Milk Producers Federation based in Arlington, VA

Senate Bill 2 in our opinion, as proposed, does not serve in the best interest of our industry. The Cheese Exchange is national in scope and serves as a viable price discovery mechanism for bulk cheese. The weekly trading session is the only national cash auction market available to buyers and sellers when critical inventory swings occur. To give you an example, lets assume you want to sell a carload of cheese:

You as a member might offer for sale at last week's closing price. Nobody is will to pay that amount, so you drop the price by 1/4 cent increments until someone agrees to that amount. Conversely, supposing your there in Green Bay to buy a carload of cheese, the same scenario might evolve on the up side. It represents nothing more than an auction based on the economics of supply and demand. It must also be remembered that no one is compelled to mandate that Cheese Exchange opinions be used to set any type of pricing system. It is our feeling that to have one state trying to dictate rules to a National market could lead to a stifling of trade, and only serve to disrupt marketing of cheese commodities. There exists no other reliable pricing benchmark in the industry as our own UW study committee admitted. The perceived problems surrounding the exchange by many who have little knowledge on the subject is not one that will likely be solved in Madison, but must be analyzed and addressed on a national basis.

Instead we think it would be more appropriate to work on a national effort to improve the trading process such as some of the ideas already being floated around and the effort that the National Cheese Institute is suggesting. Some of the suggested areas to improve and modify on include:

- *Federal oversight by the Commodity Futures Trading Commission*
- *Mechanisms to increase participation through electronic trading and more frequent trading*
- *Publishing of a larger sampling of private transactions and sales by USDA*
- *Combining cash and futures markets to increase industry use of price risk management*

These are some of the suggestions being talked about, others will come in the process. As one exchange member and friend recently put it and I quote, "blaming the Cheese Exchange for changes in pricing and all the volatility in the market is something like shooting the mailman because he brought bad news." Well folks he's also recently brought good news too. There's really no secret magic that takes place on the corner of Walnut and Washington each week, and with the lessening of Government support intervention, the law of the marketplace is kicking in. The Exchange may not be the perfect machine but the tune up has begun.

In closing I'd like to say Green Bay is not sacred ground for the National Cheese exchange, as it is for the Packers, it could probably operate just as well in Chicago or even Flint, Michigan. Lets move forward and evolve any improvements on a national level where they belong not on the state level.

Thank you very much for allowing me time on your committee.



Testimony

Wisconsin Federation of Cooperatives

Senate Bill 2

Public Hearing Before the Senate Committee on Agriculture and Environmental Resources
January 21, 1997

I am Will Hughes, Director of Dairy Policy and Business Development, Wisconsin Federation of Cooperatives. WFC is opposed to Senate Bill 2 as written. While we appreciate your efforts to respond to concerns related to the National Cheese Exchange, this bill is not the vehicle to address these issues.

The dairy members of Wisconsin Federation of Cooperatives believe that passage of Senate Bill 2 will put the interests of Wisconsin dairy cooperatives and their members at financial risk because this bill will jeopardize the workings of the current cash market for cheese at a time when no viable alternative exists. A cash market is needed to operate cooperatives' cheese businesses.

The bill will have the effect of restricting trading activity by dairy cooperatives who are generally manufacturers and sellers of cheese, yet routinely buy as well as sell on the National Cheese Exchange. The bill language would restrict common business practices as well as the "trading against interest" that the Legislature is trying to prevent.

If trading of cooperatives is restricted or if the National Cheese Exchange ceases to exist before improvements can be made to it, or before an alternative cash market is created, dairy cooperatives will be left without a cash market reference price on which to base their selling prices in contract and negotiated sales. A cooperative's ability to effectively bargain and negotiate fair prices will be lessened in that event, and chaos in the marketplace could result. There needs to be provision for an orderly transition from the current cash market to an alternative or an improved cash market.

There are several deliberate efforts underway that will either lessen the impact of the National Cheese Exchange on farm milk prices, improve the public confidence in the National Cheese Exchange or move toward development of an alternative cash market for cheese. WFC dairy cooperatives support these efforts.

- 1) USDA has indicated that it will not use the National Cheese Exchange as a component of any milk price formula for use in federal milk marketing order pricing when it reforms federal milk pricing rules unless and until public confidence in the market is no longer subject to question.
- 2) Efforts are underway for federal oversight of the National Cheese Exchange or any cash market alternative. Federal regulation by the Commodity Futures Trading Commission is preferable.

Wisconsin Federation of Cooperatives Testimony on SB 2

- 3) The dairy industry is committed to either improve or replace the National Cheese Exchange in an effort to improve public confidence in the cash market for cheese. Alternative cash markets are being explored by the Coffee, Sugar, and Cocoa Exchange. The Chicago Mercantile Exchange will be considered as an alternative market as well.

The Wisconsin Federation of Cooperatives supports prompt and effective action by the dairy industry to implement these efforts as soon as possible. WFC served on the Governor's Task Force on Cheese Pricing and supports its basic recommendations.

Finally, we support the efforts of the Wisconsin Legislature and this Committee to work toward resolution of finding and maintaining a viable cash market for cheese in which there is a high degree of public confidence.

Thank you.

**Statement by
Land O'Lakes, Inc.
January 21, 1997**

Good morning madam chairwoman and committee members, I am Terry Nagle, director of communications for Land O'Lakes, Inc. Land O'Lakes is opposed to Senate Bill 2 as presently written.

As a Minnesota based cooperative, Land O'Lakes is concerned that Packer Fever may be clouding clear thought when it comes to the proposed legislation concerning the National Cheese Exchange.

Senate Bill 2 would seriously disrupt the effective functioning of the existing market without creating a viable alternative. This would hurt family farmers and their marketing organizations.

Land O'Lakes believes the cheese exchange serves an essential role as a price discover mechanism. At the same time, we support focused industry efforts to refine the workings of the current cash market for cheese and also the investigation of market alternatives that fulfill the same functions.

Finally, we applaud the efforts of this committee and the Wisconsin State legislature to create a farmer friendly environment for the 21st century.

We are particularly encouraged by the show of widespread unity and shared concern for the future among dairy industry representatives here today.

As the warm glow of success soon replaces Packer Fever, we are confident that together our dairy industry can and will build a better market that serves the best interests of all producers and their marketing organizations.

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**SCHREIBER FOODS, INC.**

P. O. BOX 19010 • GREEN BAY, WISCONSIN 54307-9010

January 21, 1997

SCHREIBER FOODS, INC.
STATEMENT REGARDING PROPOSED WISCONSIN LEGISLATION
NATIONAL CHEESE EXCHANGE TRADING PRACTICES

Schreiber Foods, Inc. has been a proud member of the dairy industry of Wisconsin for over 50 years. As the largest privately held cheese company in the world, Schreiber's 2,600 partners are dedicated to providing wholesome, high quality cheese to America's consumers.

As a leader in the dairy industry, Schreiber has no fundamental objection to reasonable regulations by appropriate agencies. However, Schreiber does object to regulations that have a chilling affect on free market movement of product. It is our opinion that passage of the legislation relating to regulation of various trading practices of the National Cheese Exchange (NCE) will freeze trading activity on the NCE, and damage dairy industry members - both processors and producers.

Clearly, the NCE is a national organization. Any attempt to impose state regulations that affect a national market is not in the best interest of Wisconsin's dairy industry which must compete nationally (and often globally). A regulated plan to characterize any organization as a "buyer" or "seller" on the exchange does a disservice to the industry. The Exchange operates for the purpose of providing those who deal in cheese an alternate market for the sale or purchase of cheese. Market conditions must determine activity on the Exchange - not the artificial descriptor imposed on industry members. Penalties imposed within the rule will freeze activity on the Exchange, and will halt progress toward the goal of the 1996 Farm Bill - less government intervention.

Without question, deregulation of the industry is leading to more volatility in an increasingly dynamic, market oriented dairy industry. The affect of deregulation on any industry creates stress, and an overwhelming desire to smooth the transition. Schreiber supports efforts the industry is initiating to review existing cash and futures markets for cheese, as well as possible alternatives to address concerns being raised about existing markets. In addition, Schreiber will continue to work within the legislative and regulatory communities to insure a level playing field for producers and processors dedicated to continued growth within an open market. We ask that no action be taken on this legislation which would impede the current cash market while the process moves forward.

For further information contact Deborah Van Dyk, Director, Legal Affairs

January 21, 1997

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

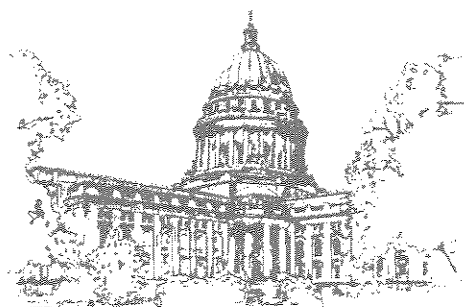
A viable cash market for cheese is crucial to the cheese industry. The existing National Cheese Exchange is currently the only viable cash market for the sale and purchase of cheese. Having such a market is absolutely necessary for any commodity. The National Cheese Exchange also accurately reflects 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.

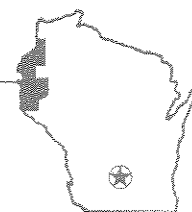
We support the initiatives being undertaken by the dairy industry to continue to refine and enhance trading techniques at the National Cheese Exchange and to examine alternative cash market options. We are committed to a viable cash market and to the development of additional risk management tools to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



State Senator
Alice Clausing



**TESTIMONY IN FAVOR OF SENATE BILL 2
(NATIONAL CHEESE EXCHANGE BILL)**

BY SENATOR ALICE CLAUSING

JANUARY 21, 1997

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENTAL RESOURCES

I appreciate the committee members' willingness to meet on such short notice to consider Senate Bill 2.

The dairy industry annually records almost \$3 billion dollars in milk receipts providing tens of thousands of jobs in processing, servicing, education, and marketing. Dairying is a part of our past and continues to be an industry woven into the fabric of our culture.

Despite our economic reliance on the dairy industry, there is a crisis in America's Dairyland. We are losing over 2,000 family dairy farms a year - that's more than three a day! Prices of supplies needed to produce milk have sky-rocketed while milk prices received by family farms have remained at levels paid to them over fifteen years ago.

This problem was exacerbated by a huge drop in the price of cheese on the National Cheese Exchange (NCE) this fall. Since the pricing formula for raw milk is based on the price of block cheddar prices set at the NCE, the price farmers received for their milk also tumbled. Since October, milk prices tumbled almost 25% in line with dropping cheese prices paid for cheese at the NCE. For every 10-cent fall in cheese, milk prices sink by about \$1. Dairy farmers have seen their incomes slashed by about \$2,200 per month, which equates to a pay cut of about 20%. How long can they be subjected to this?

Now is clearly the time for action. Our U.S. Senators have worked with the U.S. Secretary of Agriculture to speed up federal government purchases of cheese. Federal officials are considering creating and expanding other cash and futures markets for cheese that would produce alternate trading opportunities. Our state's Cheese Task Force has recommended that the USDA make several changes in the determining factors for the Basic Formula Price and that the Federal Trade Commission and Commodity Futures Trading Commission re-evaluate their regulatory authority over the NCE. These are long-term solutions which may take months or years to change, but they do not address the urgency of the problem.

This is not enough. The state needs to do whatever is within its power at this time to ensure that our farmers have an opportunity to receive a fair price for their life's work. We can



start by reforming the NCE. The NCE is the forum and the stage to manipulate cheese and milk prices.

The price of milk is tied closely to the price of cheese as established by trade on the NCE. A study conducted by the UW-Madison Department of Agricultural Economics found that four companies accounted for 88% of all sales on the NCE during the time period studied. These are some of the nation's leading buyers of cheese in transactions off the exchange. The concentration of major cheese traders provides them with the opportunity to drive down prices by SELLING cheese instead of buying as they normally would. Thus, the study indicates that, as currently organized, the NCE appears to facilitate market manipulation -perhaps at least partially explaining the 30% drop in cheese prices since late September.

The state has the power to address this problem. Under a section of our state statutes called the "Little FTC Act" (ss 100.20), Wisconsin has the authority to ensure fair trading practices. These statutes mirror and complement federal anti-trust laws. In addition, DATCP is given broad authority under state statutes to ensure the orderly marketing of agricultural products through the administrative rule-making. In fact, DATCP drafted legislation to strengthen Wisconsin's cheese trading standards, but the plan was rejected by the Governor's Cheese Task Force.

Senate Bill 2 is a legislative proposal patterned after DATCP's proposed rule. SB 2 prohibits anyone from engaging in actions on or off the NCE with the intent to manipulate artificially the price of milk or cheese. It also prohibits a practice called trading against interest, which covers activities like:

- selling cheese on the NCE at a price less than what could have been received off the exchange,
- buying cheese on the NCE at a price higher than the purchase price that could have been received off the exchange,
- acting primarily as a seller of cheese on the NCE while acting primarily as a buyer off the NCE, and
- acting primarily as a buyer of cheese on the NCE while acting primarily as a seller off the NCE.

My plan will further strengthen DATCP's enforcement capabilities in relation to trading on the NCE. This is one of the few opportunities the state has to control these unfair trade practices, and we should act quickly to prevent further manipulation of prices on the NCE, which occurs at the expense of our dairy farmers.

The historic price drop from earlier this fall will cost the dairy state \$55 million in losses. Considering that each dollar circulates from five to seven times in the economy, Wisconsin's rural economy stands to lose over \$385 million each month these lower prices are in effect. That is the cost to our farmers and our state of doing nothing to change unfair trade practices.

This bill is the hammer that will force changes to the status quo. Violators of this law are subject to court injunctions, civil forfeitures, and criminal penalties. Persons suffering

monetary loss may also sue the violator directly and recover double damages, costs, and fees.

I do not want to see snowmobile trails closed. I do not want to see a milk strike. I certainly do not want to see family farmers forced out of business because they can not get a fair price for their product. I want to see action. SB 2 is the vehicle to ensure that Wisconsin farmers are not the victims of a system that condones unfair trading and price manipulation.

Members of the NCE have nothing to fear with the passage of SB 2 as long as they are not trading against interest. SB 2 only applies to trading practices which manipulate the market. NCE - if the shoe fits, put it on.

I thank you in advance for your attention to this matter, and I encourage your swift approval of SB 2.

**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.

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

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 Clausing 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.

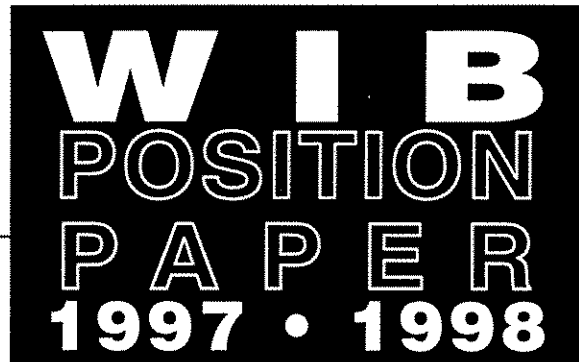
We owe it to Wisconsin dairy farmers to resolve this problem. Their message is loud and clear. Farmers will not tolerate a system that allows their bottom line to be manipulated by traders with the power to influence the National Cheese Exchange. We must not tolerate such a system either. Today's work 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.



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.

**Before the
Senate Agriculture & Environmental Resources Committee
January 22, 1996**

Discussion Points

1. WISCONSIN'S DAIRY INDUSTRY IS A MAJOR ECONOMIC FORCE IN THE STATE.
2. WISCONSIN'S WINTER TOURISM INDUSTRY, DRIVEN IN LARGE MEASURE BY SNOWMOBILING, IS ALSO A MAJOR ECONOMIC FORCE IN THE STATE.
3. IN MANY SNOWMOBILING REGIONS OF WISCONSIN, THE FARMERS AND SNOWMOBILERS NEED TO RELY ON EACH OTHER. WISCONSIN HAS 25,000 MILES OF GROOMED SNOWMOBILE TRAILS. THIS MILEAGE TOTAL IS GREATER THAN THE NUMBER OF MILES OF STATE TRUNK HIGHWAYS WE HAVE IN THIS STATE. A LARGE PORTION OF OUR 25,000 MILES OF TRAILS ARE LOCATED ON PRIVATE LANDS, OFTEN OWNED BY INDIVIDUAL FARMERS.
4. THE WISCONSIN SNOWMOBILERS HAVE HAD AN OUTSTANDING RELATIONSHIP WITH WISCONSIN'S FARMERS FOR THE NEARLY THREE DECADES THAT THE ORGANIZED SNOWMOBILE PROGRAM HAS EXISTED. WE CARE DEEPLY ABOUT THE FARMERS AND THE LAND THAT THEY ARE STEWARDS OF AND, IN RETURN, THE FARMERS ARE SUPPORTIVE OF THE SNOWMOBILE PROGRAM.
5. SNOWMOBILERS ARE NOT EXPERTS WITH MILK AND CHEESE PRICING PATTERNS. HOWEVER, WE ARE EXPERTS AT KEEPING GOOD RELATIONS WITH OUR FARMERS, INCLUDING RECOGNIZING WHEN THEY ARE ECONOMICALLY SUFFERING.
6. WE ENCOURAGE YOU TO SERIOUSLY CONSIDER THE ADOPTION OF 1997 SENATE BILL 2. THE WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE & CONSUMER PROTECTION HAS HAD A VERY LONG HISTORY OF REGULATING UNFAIR TRADE PRACTICES. MANY INDUSTRIES AND ALL OF WISCONSIN'S CONSUMERS HAVE BENEFITED FROM AGGRESSIVE TRADE PRACTICE PROTECTION BY THE DEPARTMENT. WE SHOULD GIVE 1997 SENATE BILL 2 A CHANCE TO WORK AS ONE TOOL IN DEALING WITH MILK PRICING PRACTICES IN THIS STATE.

RESPECTFULLY SUBMITTED BY:

MORRIS NELSON, CHAIRMAN, LEGISLATIVE COMMITTEE
ASSOCIATION OF WISCONSIN SNOWMOBILE CLUBS, INC.
(AND WISCONSIN DAIRY FARMER, ROCK COUNTY)

My name is Richard Wagner. I am Vice President and part owner of Weyauwega Milk Products, Weyauwega, Wisconsin.

We obtain milk from 510 dairy producers in central Wisconsin and produce cheese and whey products.

It is our belief that the National Cheese Exchange has enabled accurate valuation of cheese over time. The NCE can be fine tuned, and the industry is working proactively to do this.

The proposed legislation in 100.053 is an inappropriate over reaction rooted in the fears of the good dairy producers of our state. This legislation would make free trade within our state no longer free. It would ultimately prove to be a sad diversion from our most important focus which must be toward more efficient production of the highest quality dairy products. It is appropriate to try to help our dairy producers. This legislation will not do that.